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CONTENTS

ABSTRACTS

2

CURRENT EVENTS

- Indonesia's 2004 Election: Predicting is Harder Than Ever

Jusuf Wanandi

4

- Recent Developments of Indonesian Islam

Azyumardi Azra

10

REVIEW OF POLITICAL DEVELOPMENT

- 2004 General Elections: Complexities and Prospects

Staff, Department of Politics and Social Change, CSIS

19

REVIEW OF ECONOMIC DEVELOPMENT

- The Indonesian Economy: Moving along the Path of Modest Growth

Staff, Department of Economics, CSIS

32

ARTICLES

- Assessing Indonesia's Human Rights Practice Post Soeharto: 1998-2003

Hikmahanto Juwana

50

- Globalization and Human Security in Southeast Asia

M.C. Abad, Jr.

86

- Koizumi's New Policy on ASEAN and Indonesia's Response

Teuku Rezasyah

98

ABSTRACTS

ASSESSING INDONESIA'S HUMAN RIGHTS PRACTICE POST-SOEHARTO: 1998-2003

By Hikmahanto Juwana

In developing countries, such as Indonesia, an individual who assumes high position in the government structure is considered to be important factor for significant change to happen in the country. Many developed countries, international organizations, business communities, even political elites within the country seem to subscribe to this view when change is expected. Indonesia under the Soeharto administration had been considered as a country with poor human rights practice and records. The resignation of Soeharto as President in May 1998 sparked hopes that the human rights situation would improve. This article aims to assess human rights practice in Indonesia post-Soeharto administration.

GLOBALIZATION AND HUMAN SECURITY IN SOUTHEAST ASIA

By M.C. Abad, Jr

Most policy makers today are no longer concerned about the value of economic liberalization and interdependence in the maintenance of peace and security among nations, but on the ability of nations or group of nations in managing the ensuing new power relations and the social impact of economic change as a result of globalization. Specific challenges arising from globalization include among others: (1) the different levels and pace of economic growth; (2) intensifying competition for markets and resources among nations; and, (3) "the challenge within" — the social impact of globalization or what some have referred to as the public purpose of integration. This article will focus on the third challenge.

KOIZUMI'S NEW POLICY ON ASEAN AND INDONESIA'S RESPONSE

By Teuku Rezasyah

Koizumi gained greater attention from within ASEAN soon after he launched a policy called 'An Initiative for the Comprehensive Economic Partnership', with Japan aspiring to create a community that acts together and advances together. In

that initiative, two main issues have been pointed out: economic cooperation and other cooperation for the future such as education, human resources development, and transnational issues. ASEAN countries could hardly produce a concerted response, as they tended to focus on their unilateral policies. While Thailand and Singapore preferred a faster track towards a Free Trade Agreement with Japan, Indonesia's response remained silent up to now. This article seeks to explore reasons for Indonesia's lack of responses to the Japanese initiatives.

FROM THE TRENCHES

The First Year of Indonesia's Crisis of 1997/98
as Seen from the World Bank's Office in Jakarta

Written by: Lloyd R. Kenward

Published by: CSIS, Jakarta



This book provides an analysis of the first year of Indonesia's crisis taking place in 1997-1998. It is written from the perspective of someone who had the opportunity to observe the development and the impact of the crisis from a strategic position: as an economist sitting in the World Bank country office in Jakarta. The book is therefore an important contribution to the growing literature on the Indonesian economic crisis for two reasons. *First*, it provides the general audience with a readable account on the evolution of the

crisis. *Second*, it also presents a detailed economic analysis for the specialized reader coming from the academic or policy making community.

The book consists of three chapters. Chapter I presents a concise account of Indonesia's economic performance prior to the crisis. Chapter II provides a very detailed chronological review of the first year of the crisis. The main lessons and conclusions that emanate from the analysis are highlighted in Chapter III.

The book serves as a good example of a comprehensive political economy approach, as it manages to put economic analysis into a proper political context. Therefore, this publication is recommended for those who are interested in Asian economic crisis in general and Indonesian economic policies in particular.

2002. 1st Ed., x + 152 pp.; 25 cm, ISBN 979-8026-74-8; Rp 40.000,00
(overseas: US\$25.00, postage by airmail included)

CURRENT EVENTS

Indonesia's 2004 Elections: Predicting Is Harder Than Ever*

Jusuf Wanandi

ELECTION fever along with the inevitable campaigning essentially began to spread as soon as the legislation was finalized by the House of Representatives (DPR) in mid-2003. Efforts are already underway to mobilize funding to establish local committees, and prospective candidates have been selected and proposed from the various political parties. Based on the amended Constitution, there are two very pronounced changes: The direct election of the president at two stages, and the election of a kind of regional/provincial representatives (or the "Senate") council with limited powers to represent the regions.

While the elections of the president and House legislators will involve candidates that are put forward by political parties, the "Senate" or the Regional Representatives Council (*Dewan Perwakilan Daerah*/DPD) will be composed of personal/individual candidates.

Public opinion polls have been undertaken by many media groups or NGO's interested in the general elections. Their results have varied wildly, but its accuracy is questioned due to the limited access of the polls itself. It is a new phenomenon for Indonesians and only certain segments of society can be, or are intentionally, polled — most of whom are mainly people in large cities, with home telephones. Therefore, normally just the elite and middle class will get the access to be involved in the

*This article had been published in *The Jakarta Post* successively on 3 and 4 February 2004.

olls. With such limited surveys, it is not easy to reach an accurate cross-section of the many greatly diverse demographic segments, which is particularly important because most people in this multifarious archipelago will vote based on which group they come from, depending on one —or a combination of— factors that include religion, ethnicity or regional identity.

Most domestic institutions, such as political organizations or mass-based organizations are still underdeveloped. Only the Golkar Party has a reasonably well-organized network nationwide. The other ones are still based on those demographic group identities.

The electronic media —especially radio and TV— will play a certain role, as freedom of expression is no longer illegal. However, most of those media are owned by urban, upper-class groups in society, including the family and/or cronies of former president Soeharto. It should be noted, however, that their influence on people's voting behavior is not very clear, because this is also a relatively new instrument here. But radio and TV certainly have a wider reach than the print media, or so it would seem.

The new political laws are very much in favor of the existing political parties that are well-represented in the House of Representatives (*Dewan Perwakilan Rakyat/DPR*).

The four or five largest political parties now in the DPR are likely to maintain their dominance. Only the rank amongst themselves may change.

For instance, based on the performance in regional elections of governors or *bupati* (regents), the Golkar party seems to be the best organized party and has been able to win a majority of governors and regents (48% of governors and 36% of regents are Golkar members).

On the other hand, there have been tensions and rifts within PDI-P, where the central board often clashed with the local branches on selecting the candidates for governors or regents. This has caused a major split among party members and supporters. In addition, the disappointing lack of achievement by the Cabinet, led by a PDI-P president, will also hurt the party.

The Prosperous Justice Party (*Partai Keadilan Sejahtera/PKS*), which is headed by Muslim intellectuals and academics, has shown that it is a well-organized institution, although it is very much based on a strict interpretation of Islamic principles. PKS has, however, shown that it can be a responsible and peaceful group in its reactions to certain events that anger more militant Muslims — the exceptionally peaceful Iraq War marches are a good example. It is still a very small party and has only seven seats in the DPR, but it could easily double that in the next election.

Another strict Islam-based party, the Crescent Star Party (*Partai Bulan Bintang*/PBB) —their symbol and beliefs are akin to the conservative ex Masyumi Party— on the other hand, is expected to lose a lot of support although it is now slightly larger than the PKS, among other things because of divisions in the party.

The new rules make it difficult for new parties to have a chance to change the political equation. The rules also severely restrict the role of individuals in the DPR. Anybody interested in becoming a legislator or a Presidential candidate has to depend on the support of political parties.

The legislative elections are as important as the presidential election because according to the new Constitution the president has to get the consent or advice from the DPR on almost every important matter including legislation, budgets, control and the appointment of every important state agency, such as the commander of the Armed Forces, the National Police chief, the governor of the central bank, the Supreme Court head and all ambassadors.

Since there is not likely to be a party with an outright majority in the DPR, coalitions and alliances are necessary to get policies through. This will be an important requirement for the next president and his/her Cabinet. For this reason, the person

who will become the president is expected to be an experienced and astute politician in addition to being a capable administrator and a respected leader.

An important factor in the presidential elections is the rule that the whole country is treated as one electoral region in that every vote counts the same in the second round of the election —whether it is from Java or outside Java— the so-called full proportional system. This makes Java, which has 60% of the voting populace, a very important area for any presidential candidate.

Thus, the combination of the presidential and vice-presidential candidates, (name recognition), and how they represent parties' demographic/identity groups, will be critical, especially in the first round of elections, because there will be several candidates. In the second round, however, Java will be dominant, and the candidate that can get a majority in Java with over 60% of the votes will have a very good chance of winning.

What Indonesia needs is a president who is experienced in government and administration, an astute and capable politician, and a balanced, moderate leader. But the situation before the presidential election is still very fluid. Attempts have been made to form alliances and coalitions to weaken Megawati's second term

prospects. Some parties still have their options open in choosing their Presidential and Vice Presidential candidates, and with whom they will forge an alliance. At this juncture it is very difficult to predict the outcome.

There are two big influences on the presidential election that need to be watched: (1) name recognition and popularity of the candidate; and (2) support from the most number of demographic segments via a greatly organized political machine. Both are needed, but which of those will be more decisive is still an open question, because it will be the first time that voters have experienced a direct presidential election.

But if history is any indication, both in this first round of the presidential election and in the legislative election, name recognition will be important, but more so will be the party machinery and the societal groups that support certain candidates. Adept party members and money are important requirements for the machinery and organization to perform. The groups can be religious, ethnic or region-based and are still very influential at the rural, grass-roots level.

For Java's relatively more educated voters, and in many cities outside Java, the resistance against Golkar during the Soeharto period earlier was such that Golkar could never

get more than 50-60% of votes in such areas, despite having exercised a great amount of pressure. The other important factors are the people's political awareness and willingness to make their own choice. It should be noted that there has been some resistance against the incumbent PDI-P. It will be important to follow the trends closely because of the fluidity of the situation in order to monitor changes before the elections are held.

Megawati, the incumbent president, has the advantage of the job, high visibility and name recognition as the daughter of former President Soekarno, and wide recognition as an opposition leader against President Soeharto. On top of these, she has also mobilized a lot of funding for the elections. However, Megawati's achievements as president have been disappointing: Unemployment is mounting and the cost of living has increased, especially for ordinary people; she is seen as being too close to the TNI; and her party, the PDI-P, is internally in a mess. The party is split at the Central Committee level as well as at the local and grass roots levels.

Even in Bali and East Nusa Tenggara, two bulwarks of the PDI-P, the party is split down the middle because many members have been disappointed with her handling of the Bali bombings. She promised to oppose the national education law but did

nothing when the PDI-P's legislators supported it. Most probably, the PDI-P will become the second party after Golkar with the loss of at least 10% of the seats in the legislature.

Nonetheless, Megawati will most likely be a finalist in the first round of the presidential elections and will go through to the second round. No candidate is likely to come out the winner in the first round due to the stringent requirements. In the second round, the two finalists only have to compete for the largest number of votes. In the second round, however, all the other candidates/political parties could rally against and defeat her.

The legislative elections will be held on 5 April 2004, three months before the presidential election. The results of the legislative elections will definitely have an impact on the presidential election as they will be announced very near the presidential election. The Golkar candidate is expected to benefit from this effect.

The other finalist in the presidential election might well be the Golkar candidate selected by the party's national convention after the legislative elections. This presupposes that the party will unite to support a credible candidate. In the primaries in October 2003, Golkar decided to let seven persons slog it out to win the party's final nomination.

Among them, Akbar Tandjung has the best credentials as an administrator as well as a politician who is able to form alliances in the legislature. In addition, he is a moderate with balanced views. His main impediment is the corruption case against him, although the money was never meant to him enrich him personally, but rather support Golkar's efforts to have Habibie reelected.

Throughout his political career, he has never been known to be corrupt. If the Supreme Court overturns his conviction, he has a real chance of becoming the final Golkar presidential candidate and winning the election. But he needs to show that he is serious about fighting corruption, and to appoint credible persons to head the law enforcement agencies, such as the chief of police, Attorney General and minister of justice.

General Wiranto has never shown credible leadership, especially during the Jakarta riots of May 1998, and during the process of Soeharto's ouster. He also has been tainted by the East Timor rampage by TNI-supported militia in the wake of the 1999 Referendum and the killing of students during the special session of the MPR in November 1998.

The international community, especially civil society groups and the media everywhere around the world, would be united against him as president, and this would have serious

mplications for Indonesia's foreign policy and foreign relations. He has been indicted in the Dili District Court in East Timor by the Deputy General Prosecutor for Serious Crimes, a post established by UNTAET, itself a body created by UN Security Council Resolution 1272 of 25 October 1999.

Domestically, an ex-army man is also not going to be a popular choice among NGOs and the elite, although some support from the public might be forthcoming as many people are fed up with the present uncertainty. Wiranto has reportedly received a lot of funding from the Soehartos and their cronies.

These two would appear to be the front runners out of the seven candidates selected during the Golkar primaries. As Akbar Tandjung has been acquitted by the Supreme Court, he is very likely to get the best chance of becoming the Golkar presidential candidate. Another person that could win in the convention is Jusuf Kalla should Akbar have not be acquitted by the Supreme Court. Jusuf Kalla is a trustworthy businessman and was never a crony of Soeharto. He has some administrative experience as Coordinating Minister for Social Affairs in the Megawati Cabinet, although this has only been over the last two years.

Kalla has stuck his neck out to get the Malino Accord signed to re-

solve the religious strife in Poso (South Sulawesi) and in the Moluccas, essentially capitalizing on the stature and respect he enjoys among people from Eastern Indonesia. He is very low key and is considered to be too pragmatic. He also has a limited capacity to reach out to the man on the street and does not have the overwhelming support of Golkar members as he was not a party member. But he could be an important figure to replace Akbar if the latter is precluded from running.

Another candidate from another party is Amien Rais from PAN (National Mandate Party) and speaker of the MPR. He has some national recognition as MPR speaker and was an opposition leader against Soeharto. He has gained some credibility by reacting strongly and consistently against global terrorism and for being instrumental in ending Abdurrahman Wahid's presidency constitutionally. He played a key role as MPR speaker in thwarting the efforts by some Muslim parties to amend the Constitution to include *sharia* law. However, he has a reputation of being capricious and therefore is considered rather opportunistic. In addition, some people around him are seen as lacking credibility. His party and his own organization have some limitations.

Meanwhile, Hamzah Haz, vice president and chairman of the PPP (United Development Party) has re-

sorted to very irresponsible rhetoric on the problem of global terrorism. His party has been split, and therefore the chances of him being elected are not high. He might be happy to get staying on as vice president.

On the other hand, Soesilo Bambang Yudhoyono, Coordinating Minister for Political and Security Affairs. He has founded the Democratic Party to support him. It is a new and small party. He has some name recognition as a coordinating minister, can speak well and get through to the people, but he is considered to lack resoluteness and courage as a leader. His chances are limited as he has no strong organizational or institutional support. He might get the support of Gus Dur's PKB (National Awakening Party). He is a more realistic cand-

idate for the PKB as Gus Dur's chances of becoming president are slim, but he has a better chance as a vice presidential candidate.

Nurcholish Madjid, a respected Muslim scholar, has no political support and will not get very far with his self-proclaimed candidacy. No big party has taken him on as its candidate. Therefore, his chances are not great.

As a concluding note, it must be said that the conduct of the elections and their results are critical to Indonesia's future as it depends so much on them. Only a capable, experienced and respected leader will be able to undertake the reforms that the country needs. Short of that, Indonesia's fate will be very uncertain indeed.

Recent Developments of Indonesian Islam*

Azyumardi Azra

INDONESIA is the largest Muslim nation of the world. Despite the fact that Muslims constitute the largest single majority of the Indone-

sian total population, Indonesia is not an Islamic state, nor a secular one in a strict sense of the term. Indonesia is a Pancasila state which places religions—including Islam—in an important position. This can be seen, for instance, in the national ideology of *Pancasila* (Five Principles/Pillars),

*Paper presented for the 4th CSAP General Conference at Hotel Borobudur Jakarta, Indonesia, 7-9 December 2003.

which adopts "belief in One Supreme God" as its very first principle. Overwhelming Muslims have accepted Pancasila as the final ideological basis of the Indonesian state. Hence, there is little question about national ideology and the state form of Indonesia.

Nevertheless, there have been certain groups—either splinters or fringes—among Muslims since the eve of Indonesian independence on 17 August 1945, who wanted to establish an Indonesian Islamic state instead. Some of them—like the *Darul Islam* (DI) and Indonesian Islamic Army (TII) resorted to rebellion during President Soekarno period; yet, they failed to achieve their aims not only because the government was able to put an end to their rebellion, but also because they failed to will any significant support from the Muslim community.

In the post-Soeharto period attempts to clear the way toward an Islamic state have also been conducted by certain groups of Muslims during the four successive annual amendment of 1945 Constitution to reintroduce the so-called "Jakarta Charter" to its preamble. The reintroduction of the Charter would allow the application of Islamic law (*shari'ah*), which in the end, would lead to the transformation of Indonesia into an Islamic state. But again these attempt failed because the vast majority of political and social forces both with-

in the Indonesian Consultative Assembly (MPR) and in society at large opposed the move and kept the pro-*shari'ah* and pro-Islamic state groups at bay.

Even though Indonesia is not an Islamic state, there is no question that Islam has been (and still is) an important factor in Indonesian politics. The questions arise now, most commonly on the extent to which Islam (or the Muslims) becomes a factor in both domestic and foreign policies, and how Muslims influence Indonesia's foreign policy in order to play a greater role in the Islamic world. Basically, Indonesian government has traditionally or conventionally disregarded Islam as an important factor in its foreign policy. Despite its close relations with Muslim states in the Middle East, Indonesia remains not to associate itself with Islam. Therefore, it is important to make it clear that if Indonesia has extended supports to certain Middle Eastern countries or groups of Muslim people—e.g., the Palestinians—then that support is basically not on the ground of Islam. Rather, it is on the basis that Indonesia supports those who struggle for independence and justice in order, as stated in the Preamble of Indonesia's 1945 Constitution, to create a just international order.

Based on such tendencies, it is futile to expect that Indonesia would and could play a greater role in the

Islamic world. In fact Indonesia, has never played a prominent role nor occupied an important position in international Islamic organizations, such as the Organization of Islamic Conference (OIC). This has been (and still is today) an official position of the Indonesian government, not simply the result of other Arab Muslim countries underestimating Indonesia with its overwhelming Muslim population. Indonesia simply does not want to identify itself closely with international Islamic organizations, while at the same time realizes the need to maintain good relations with Middle Eastern [Muslim] countries.

DISTINCTIONS OF INDONESIAN ISLAM

The fact that Indonesia has no agenda to pursue a greater role in the Islamic world has a lot to do with the nature of Islam in Indonesia. Indonesian Islam has a number of distinctive characters *vis-a-vis* Middle Eastern Islam. Indonesian Islam, by and large, is a moderate, accommodating kind of Islam, and the least Arab-icized Islam. Therefore, the American anthropologist, Clifford Geertz, loves to call Islam in Java as "religion of Java" which he adopts as the title of his acclaimed book published in 1964. The term "religion of Java" refers to Islam in Java—as in many other places in Indonesia—that has been mixed and amalgamated with old

and pre-Islamic beliefs and socio-cultural tradition. Therefore, Indonesian Islam is much less rigid compared to Middle Eastern Islam. For that reason, *Newsweek* and *Time* magazine not long time ago call Indonesian Islam as "Islam with a smiling face" — Islam which in many ways is compatible with modernity, democracy, and plurality.

With its distinctive characters, it is not surprising, therefore, if Indonesia—the largest Muslim nation in the world—according to a report entitled *Freedom in the World 2002: The Democracy Gap* released by Freedom House New York in late December 2001, is one of "bright spots" of democracy together with other pre-dominant least Arabicized Muslim countries such as Bangladesh, Nigeria, and Iran. Freedom House found that while there is an obvious democracy deficit in the Islamic Arab world, what is called "Arabic core-democratic ferment" is considerable in countries which have predominant or significant Muslim population, such as Albania, Bangladesh, Djibouti, the Gambia, Indonesia, Mali, Niger, Nigeria, Senegal, Sierra Leone, and Turkey.

The formation of those distinctive characters of Indonesian Islam at least has a lot to do with two factors. *First*, peaceful spread of Islam, which is called by TW Arnold in his classic book, *The Preaching of Islam*, as

netration pacifique". The spread of Islam was not through the use of force —from Arabia, for instance— but rather by way of slow penetration through centuries involving accommodation of local belief and cultures. This process can be also called as "indigenization" or "vernacularization" of Islam. Secondly, structure of Indonesian society which is very different from Middle Eastern society. To take one example, while Islamic Middle Eastern society is a male-dominated society where women are confined to domestic sphere, Islamic Indonesian society is basically more loosely structured, where women enjoy much greater freedom.

The election of Vice President Megawati Soekarnoputri to replace the late President Abdurrahman Wahid on 23 July 2001, represents freedom that women enjoy in Islamic Indonesia. President Megawati gained contested support not only from the MPR (*Majelis Permusyawaratan Rakyat*/People Consultative Assembly) but also from the vast majority of Indonesian Muslims. It is important to make it clear that large mainstream Muslim organizations, such as the *Nahdlatul Ulama* (NU) and *Muhammadiyah* —each of which claims a membership of 40 and 35 million followers respectively— have no objection on religious reason to Megawati being female as the president.

Other large regional Muslim organizations in Western and Eastern Indonesia took similar attitude in this particular question. Similar position has also been taken by Islamic or Muslim-based parties like the PPP (*Partai Persatuan Pembangunan*/United Development Party), PBB (*Partai Bulan Bintang*/Star and Crescent Party), PK (*Partai Keadilan*/Justice Party), PKB (*Partai Kebangkitan Bangsa*/Nation Awakening Party), and PAN (*Partai Amanat Nasional*/National Mandate Party). The PPP which staunchly had opposed Megawati on religious ground in the pre- and post-general election of 1999, later accepted Megawati as president; and in fact the national chairman of PPP, Hamzah Haz, was elected during the special session of MPR on 24 July 2001, as Vice President creating a duet of leadership that consists of secular nationalist represented by Megawati and religious nationalist represented by Hamzah Haz.

There was only a limited number of hardliner Muslim groups who opposed the ascendancy of Megawati on gender reason, that —in their literal understanding of Islam— it is not permissible according to Islamic law for a woman to hold the highest leadership in Muslim society and state. These groups, losing momentum with the impeachment of President Wahid, came to the forefront in more visible, vocal, and militant manner

in the aftermath of the terrorists' attacks on the WTC in New York and the Pentagon in the Washington DC on 11 September 2001. Even though these groups, like FPI (*Front Pembela Islam*/Islamic Defence Front), *Lasykar Jihad*, Hizb alTahrir (Party of Liberation) and MMI (*Majelis Mujahidin Indonesia*/Indonesian Council of Jihad Fighters), exert only a limited influence among Indonesian Muslims as a whole, they would try to make use any possible issue related to Islam and Muslims for their own purposes, among others, to undermine President Megawati's authority. President Megawati, however, will survive the challenge of radical political Islam given the sustained support of mainstream Muslims.

RADICAL GROUPS IN INDONESIA

The existence of hardliner, militant, radical, or even "fundamentalist" Muslims within Indonesian Islam that are so obvious recently and have even been regarded to have kidnapped center stage of Indonesian Islam in the aftermath of the WTC and Pentagon terrorist attack, is actually not new. There were radical groups during the period of both Presidents Soekarno and Soeharto that attempted to establish an Islamic state in Indonesia, replacing *Pancasila* as ideological common platform that had been ac-

cepted by virtually all Muslim nationalist leaders as well secular nationalist leaders.

These groups, as mentioned above, had been known as the DI/TII (*Dar al-Islam/Tentara Islam Indonesia*/Islamic State/the Army of Islam in Indonesia) in the 1950s. Later, during Soeharto period, there had been radical groups like the NII (*Negara Islam Indonesia*/Islamic State of Indonesia) and "*Komando Jihad*" (Jihad Command) groups that, again, attempted to establish an Islamic state in Indonesia. It is important to point out that some of these radical groups during Soeharto period were believed to have been engineered by certain army generals in order to discredit Islam. Despite that, all attempts of these radical groups failed not only because of Indonesian army harsh and repressive measures, but also because they failed to gain support from the mainstream Muslim.

The fall of President Soeharto from his long-held power of more than three decades, which has been followed by political liberalization, has brought momentum for the rise of Muslim radical groups. Many of them are new groups, that are unknown before, such as the *Front Komunikasi Ahlu-Sunnah Wal-Jama'ah* (FKASWJ) with its well-known paramilitary group, the *Lasykar Jihad* (Jihad Troops), the *Front Pembela*

lam (Islamic Defense Group), the *ajelis Mujahidin Indonesia* (Indonesian Council of Jihad Fighters), the *maah al-Ikhwan al-Muslimin Indonesia* (JAMI), and some other smaller groups.

There is no accurate account of the origin and establishment of these groups, which make their appearance since the interregnum of President [Habibie] unknown. There are reports that circles of their leadership have been close to certain army generals; therefore some observers assert that their rise have been sponsored, or at least helped, by certain circle of Indonesian military. These groups conspicuously tend to be led by leaders of Arab —particularly Yemeni— origin, e.g., FPI is led by Habib Rizieq Shihab, the *Lasykar Jihad* by Hafid Umar Thalib, the MMI by Abu Bakar Baasyir, the *Ikhwan al-Muslimin Indonesia* by Habib Husen al-Abasyi. Even though each of these groups claims large number of membership, it is clear that their membership and influence are very limited.

Religiously speaking, these groups tend to adopt a literal interpretation and understanding of Islam. Furthermore, they insist that Muslims should practice only what they call as the "pure" and "pristine" Islam as practiced by the Prophet Muhammad and his Companions (*Sahabah*, or the *salaf*). In this case, they exercise the

Salaf movements. Based on their literal understanding of Islam and Salaf's activism, they attacked discotheques, bars, and other places they considered as the "places of vices". It is also within this kind of Islamic worldview they understand the concept of *jihad* as "holy war" against those they considered as enemies of Islam and Muslims. While in fact the true meaning of "jihad" is "exerting oneself to the utmost" in any kind of Muslims' activities, "Jihad" as "war" is only allowed as the last resort to defend Islam and Muslims from hostile enemies.

In addition to the above-mentioned groups, there are older groups that have been in existence since Soeharto time, but escaped the regime's harsh measures for they made some adjustments not only politically *vis-a-vis* the regime, but also religiously *vis-a-vis* the mainstream Muslims. The most important of such groups is the *Hizb al-Tahrir* (Party of Liberation), which was originally established in Lebanon by Shaykh Tagi al-Din al-Nabhani, and firstly introduced to Indonesia in 1972.

The main objectives of the *Hizb al-Tahrir* are to perpetuate what they regarded as the true Islamic way of life globally and, most importantly, to re-establish the *khilafah* (caliphate), a universal Islamic political entity, which is believed to have been the most

suitable and effective political system by which to achieve Muslim unity. To achieve these goals, the Hizb al-Tahrir seems to have little difficulty in resorting to radicalism. This is why it soon became one of the most popular movements among disenchanted students and young people, not only in the Middle East, but also among Muslim students pursuing their degrees in Western countries.

In the period after the fall of Soeharto the Indonesian Hizb al-Tahrir becomes more visible, assertive, and vocal to voice their ideals; it is also very active in mass-demonstrations against the US in the aftermath of the WTC and Pentagon tragedy and the US subsequent military operations in Afghanistan. Despite its being more visible today, as the leader told me, the membership of the Hizb al-Tahrir does not increase in any significant way.

There is little doubt that all radical groups mentioned above have in one way or another certain connections at either theological or organizational levels or both with particular groups in the Middle East or elsewhere in the Muslim world. It is already stated that the newer groups have a leadership that of Middle Eastern origin and tend to be Middle-Eastern oriented in their ideology and movement. While the older group such as the Indonesian *Hizb al-Tahrir* in fact

genuinely originated in the Middle East, it is yet difficult to ascertain their possible connection with Usamah bin Laden or *al-Qaidah*. The leaders of FPI, *Lasykar Jihad* and JAMI have denied any connection with Usamah bin Laden or *al-Qaidah*. In fact, many leaders of these groups are very critical of Usamah bin Laden whom they accuse of being "*Khariji*" (*Khawarij* or the seceders), e.g., Muslims who seceded from the *um-mah* (Muslim nation).

The increased radicalism of the groups mentioned above undoubtedly has a lot to do with the government failure to enforce the law and solve a number of acute social ills, such as continued ethno-religious conflicts, marked increase of crimes, rampant corruption at every level of society, more widespread drug abuse, and the like. The abrupt decline of central government authority together with the demoralization of the police force have become *raison d'être* for these groups to take law into their own hands. Therefore, one important key to solve the rise of radicalism is restoring government authority and re-strengthening law enforcement agencies.

The success of Indonesian police to arrest a number of perpetrators of the Bali Bombing on 12 October 2002 had forced radical groups to be laying low. Some of the perpetrators of the bombing have been sentenced

death. In the meantime, the *Lasykar* was disbanded by its leaders, Umar Talib. This was then followed by the arrest of a number of leaders of these groups such as Habib iq Shihab and Abu Bakar Ba'asyir both of them have later also been brought to court.

CONCLUSION

With the rise of radical groups, two largest mainstream Muslim organizations—the NU and Muhammadiyah—have voiced their objection to radical ways. But their voices seem to have been not strong enough, or have tended to be overlooked by mass-media, which is more interested in the voices and actions of radical groups. But since November 2001, two organizations began to take more serious attention to the impacts of Muslim hardliners upon the image of Indonesian Islam. They admit that the image of Indonesian Islam in particular has worsened following the massive demonstrations against the US in the aftermath of the military operation in Afghanistan, and the bombing in Bali.

Therefore, leaders of both organizations have agreed that they will again project a peaceful image of Islam that protects people of other regions. The national leaders of the NU and Muhammadiyah, Hasyim Raza and Ahmad Syafii Maarif

respectively, state that the image of Islam has been politicized by certain radical groups for their own vested interests; such radicalism demonstrated by the groups representing the political influences and not the Islamic way of thinking. Therefore, both organizations will carry out a series of activities to tackle extremism through open dialogues, joint-programs and the like. Both also appeal to Indonesian government to take harsh measures against groups that transgress the law. Syafii warns that should the law enforcers be afraid to take stern measures against radical groups, they could pave the way for the increased radicalism.

With such a stronger position that has been taken by the mainstream Muslim organizations, admittedly it is very hard to imagine that Indonesia would become a hotbed of "Talibanism". This is of course not dismissing at all the possibility of the existence of radicalism in Indonesian Islam; it is clear that like in any other religion, radicalism in one kind or another, for one reason or another, would continue to exist among Muslims including in Indonesia. But, with the stronger position held by mainstream Muslim organizations, the influence of radical groups can be contained and will be very limited and, therefore, they will fail to have any significant impact that could change the peaceful nature of Indonesian Islam.

The US and Western countries should take a very cautious policy to handle Muslim radicalism in Indonesia. Americans should not over-emphasize the threat of such radical groups, since it could give them more publicity, which they seek. As mentioned earlier, there is not much sympathy among the majority of Indonesian Muslims to radicalism expressed by some of their co-religionists. Yet, should the US remain over-reactive to this question, it could even further ferment uneasiness towards the US among the mainstream Muslims. Hence, such overreaction could also alienate moderate Muslims, which is really what the radicals are looking for. Those radicals will accordingly bring the moderates into their fold. Furthermore, it could again give momentum for them to challenge the Megawati presidency, creating Indonesian political instability.

Further strengthening and empowerment of democratic elements within mainstream Indonesian Muslims are some of the ways to eliminate radicalism. It is the responsibility of all of us to enhance Indonesian nascent

democracy; and given Muslim numerical majority, this could be done through mainstream Islamic institutions and organizations that have committed themselves to the ideals and building of Islamic civility, democracy, plurality, tolerance and peaceful co-existence among various groups, and respect for human rights.

To take an example, the State Institute/University for Islamic Studies (IAIN/UIN) Jakarta, sponsored by the Asia Foundation, has launched a new course in 2000 on "Civic Education" for its new students and student leaders. Through the "Civic Education" course, students are introduced to the idea and practice of Islamic civility in relations to democracy, plurality and other related subjects. The program now is implemented nationwide by involving other 13 IAINs, 33 Islamic colleges (STAINs), and private Islamic universities. It is hoped that through this kind and other similar programs, Indonesia as a bright spot of democracy will be able to put democracy as the "only game in town".

REVIEW OF POLITICAL DEVELOPMENT

2004 General Elections: Complexities and Prospects

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WITHIN the period of December 2003 to February 2004, preparations and competition for the imminent general elections (GEs) amongst political parties and elites have intensified. On 29 December 2003, the Electoral Committee (*Komisi Pemilihan Umum/KPU*) released the names of 24 political parties eligible for the GEs and the list of candidates competing for the House of Regional Representatives (*Dewan Perwakilan Daerah/DPD*). The candidate list for the House of People's Representatives at national (DPR) and regional levels (DPRD Province and Regency/City) had been announced on 28 January 2004.

KPU's greatest challenge is to make sure that all administrative and technical requirements for such huge and complicated GEs have been fulfilled. So far, some technical preparations

have been delayed and have raised concerns that the GEs might also be delayed. The KPU, however, assured that everything would be ready on time.

One of the most controversial issues is the Supreme's Court decision to release Akbar Tandjung. Akbar's acquittal has significantly changed the political calculations for presidential hopefuls. Within Golkar, Akbar Tandjung is narrowing, if not closing, the chances for his potential contenders to compete in the Golkar's national convention. At the national level, Akbar poses great challenge to PDI-P's presidential candidate, the incumbent President Megawati Soekarnoputri. Yet, recently, both Akbar and Taufik Kiemas (President's husband) have also indicated the possibility of joining forces for 1st round victory sweep.

Overall, the complexities and legal inconsistencies have increased the concerns over the failure to conduct free, fair and peaceful GEs. The call for peaceful and democratic campaign was raised by several NGOs. The KPU facilitated the symbolic recognition between political parties, which was then supported by government and military apparatus. An agreement was signed on 9 January 2004.

So far, the political situation has been relatively stable. This could be a positive sign leading to peaceful campaign. However, other than the tense conflict between PDI-P supporters and Golkar supporters in Buleleng, Bali, there are also several regional incidents, where local supporters of a major political party tried to obtain support through forceful intimidation. If local Elections Supervisory Committee (*Panitia Pengawas/Panwas*) and Police apparatus fail to prevent/stop such incidents, it may snowball into a greater conflict during sensitive points of the GEs, such as campaigning period and announcement of electoral results.

The first quarter of 2004 depicts further institutionalization of elections process in Indonesia that goes beyond elite maneuvers. Greater popular participation from civil society has also highlighted the beginning of 2004. The most notable one is the National Movement Not to Choose Rotten Politician (*Gerakan Nasional Jangan*

Pilih Politikus Busuk/GNJPPB), which stood in stark contrast with Akbar's drama. Though far from forming an effective synergy, the state and society both continued to shape the Indonesian political transition in their own mostly separate ways.

Administrative and Technical Complexities

The 2004 GEs are not a simple project in all aspects. This will involve 24 political parties; and their candidates will be competing for the votes of over 147 million voters in close to 2,000 electoral districts. Around 500,000 voting stations will be needed on each Election Day and smooth implementation relies heavily upon adequate recruitment and training of 3.5 million staff and one million security officers. Those staff will have to print, distribute and retrieve about 900 million ballot papers on time.

Logistics are only one of the many challenges facing the new elections systems. For the first time, voters will face three different systems: An Open List Proportional Representation system for the DPR and DPRD; a Single Non Transferable Vote system for the new Regional Representative Council (DPD); and a Two Round Majoritarian system for the Presidency. Thus, the challenges include: (1) The diverse and challenging nature of Indonesia's geography; (2) The limited quality of basic infrastructures, such as communication and

transportation; (3) Inconsistencies in legal structures as new laws were passed to govern general elections process, political parties, presidential elections and the Constitutional Court (CC); (4) Limited preparation time left for election administrators, political parties and other supporting institutions; (5) Inadequate educational/socialization process, substance and facilities.¹

Tardiness due to the administrative and technical complexities raises doubts that the GE would commence on time. The downfall of a delayed election is having a power vacuum. Technically, once elections fail to commence accordingly, the function of the head of the state will be taken over by the triumvirate of Ministry of Domestic Affairs, Ministry of Foreign Affairs and Ministry of Defense. Currently, Indonesia has no Minister of Defense after the incumbent minister; Matori Abdul Djalil suffered a stroke. President Megawati has yet to appoint a new minister and seemed indifferent to the risks of power vacuum.

The Commission (KPU) guaranteed that the elections will progress on schedule and that all necessary facilities and instruments for the elections will be prepared and delivered as

scheduled. However, there have been some obvious delays on the preparations of, among others: polling booth, ballot papers, and polling stations. These, according to KPU, will not constrain the GE's agenda.

The Contestants

Of 50 registered political parties, only 24 are eligible to participate in the GE. They consist of 6 existing political parties and 18 newly set-up ones. The old guards are Megawati's PDI-P, the Golkar Party, Hamzah Haz's PPP, Wahid's PKB, Amien Rais' PAN, and PBB, which is headed by Yusril Izra Mahendra, the Minister of Justice and Human Rights.

Among the 18 new political parties, only few have the potential power to compete with the old guards. They are Hidayat Nur Wahid's *Partai Keadilan Sejahtera* (PKS), Eros Djarot's *Partai Nasional Banteng Kemerdekaan* (PNBK), K.H. Zainuddin's *Partai Bintang Reformasi* (PBR), Syahrir's *Partai Perhimpunan Indonesia Baru* (PIB), Ryass Rasyid's *Partai Demokrasi Kebangsaan* (PDK), and Budhi Santoso's *Partai Demokrat* (PD).

In terms of ideological orientations, 17 parties put Pancasila as their ideology; 4 parties are Islam oriented; and three have other orientations, such as social welfare and people's economy. In terms of program orientations, political parties have delivered nothing but rhetorical statements, instead of

¹Alan Wall, '2004 Election Have it all: Size and Complexity', in the *Jakarta Post*, February 2004.

convincing platforms that reflect the party's vision and mission.

Despite the presence of new parties, the real competition would only occur between the (old) major political parties. However, due to internal problems and the promising potentials of the new political parties, the major players may not gain substantial increase in voters turnout compared to 1999. They may even be losing significant votes. Still, no new political parties can be expected to replace their positions as major political parties yet.

Several polls have already suggested loss of votes for PDI-P, from the 34% in 1999 to as low as 22% this year. Though it appears that Golkar is gaining strength day by day, it could not shake off its stigma. The Supreme Court's decision to release him of Bulog case verdict has exacerbated the stigma.

Meanwhile, Hamzah Has' PPP may face serious challenge from Zainuddin's *Partai Bintang Refomasi* (PBR). Given the popularity of Zainuddin, a significant number of votes from the traditional voters of PPP might go to PBR. Yusril's PBB may face a real challenge from Nur Wahid's PKS as both parties have claimed Masyumi's heritage. It seems, however, the increasing popularity of Nur Wahid's PKS, dubbed as 'SMS-elected President', may steal some significant votes from that of PBB.

Amien Rais' PAN and Abdurrahman Wahid's PKB appear to be two major (old) political parties that have less challenge from the surge of new political parties. However, whether or not these parties can capitalize from this political advantage remain a big question. Both PAN and PKB have yet to produce reliable policy programs that may extend their influences beyond their traditional voters.

Competition of Candidates (DPR & DPD Elections)

The elections will be held in close to 2,000 electoral districts. There are potentially up to 475,000 candidates that are nominated by the 24 Political Parties contesting the 5 April national House of Representative (DPR) and Provincial and Regency/City House of Representatives (DPRD) legislative elections.

The 24 parties submitted 8,441 candidates in total. Some 91.9% or 7,756 candidates have passed the verification process and 685 were rejected. Golkar has had the largest number of candidates accepted (652), followed by PDI-P (558), PAN (520), PPP (497), PKB (451) and PKS (446). Except for PKB, which had 100 of its proposed 551 candidates rejected, these parties in general had a very low number of rejected candidates. *Partai Demokrat* (433) and PKPB (414) also had a substantial number of candidates accepted for the 550 DPR seats to be decided.

The Proportional with Open List system is used for the legislative elections. With this new system, for the first time in DPR and DPRD elections, voters may vote for a candidate as well as for a political party. While it is a must to vote for a party, to vote for a candidate is not compulsory. The vote is valid if voters pick a candidate and a party, or a party only. The vote will not be valid if voters only pick a candidate. Already political parties are campaigning to dupe uninformed voters to vote for parties instead of candidates and dissuading candidates from campaigning for him/herself.

Money politics and potential outbreaks of conflict within and between political parties are two of the most disturbing factors. Prior to elections, there will be highly intense internal competition amongst candidates to get the first out of five positions in the party's lists candidates in all level of elections. Money politics is what usually happens. Some respondents said that the first or second position could cost around 50 to 200 million rupiah. Similar situation may occur during the campaign, where political parties would buy votes from public. Such unhealthy environment may escalate to conflicts as the mobilized public is trapped in the narrow interests of political parties, instead of experiencing a healthy political education and empowerment.

The House of Regional Representatives (DPD) election with its single

non-transferable votes system is a non-political party competition. Though criticized as having no real power, the DPD has attracted more than 1,200 candidates. Diverse range of candidates emerged (activists, former political party members, bureaucrats, etc), yet the practices of collusion, corruption and nepotism (KKN) remain pervasive. It is obvious that only the powerful ones, in terms of financial support, network and popularity, would have the likelihood to win. As such, many doubt that the DPD election may bring about new political figures with fresh and healthy ideas to uphold regional interests and developments.

Presidential Candidates Update

The Supreme Court's decision to free Akbar Tandjung from the Bulog scandal has significantly implicated the constellation of the presidential hopefuls. *First*, this decision presented Akbar with greater flexibility to squeeze his competitors in Golkar's national convention for presidential candidate, namely Wiranto, Surya Paloh and Jusuf Kalla. No longer guilty as charged, Akbar can demand support from the whole party structure as a political trade-off of what he had sacrificed for the party without any legal constraint. Even Sri Sultan Hamengkubuwono has immediately withdrawn from the convention as he argued that it would be difficult to challenge Akbar and morally incorrect.

Second, the current political compromise is that whoever won the Golkar convention, the person has to agree to be nominated as a vice president. This announcement seems to be an indirect appeal to Megawati, the presidential candidate of PDI-P, to ponder over the possibility of political coalition with Golkar. Akbar's offering might change the current speculation that Megawati would take KH. Hasyim Muzadi of *Nahdlatul Ulama* (NU), as her vice presidential candidate.

According to Megawati's latest statement, she expects to complete the presidential election in one round through majority vote, comprising more than 50% electoral vote provided that 20% of the vote is spread around 17 provinces. Majority vote would only happen if Megawati takes a strong and popular mate. So far, speculation refers to Golkar as the likely or possible mate. In 1999, only PDI-P and Golkar won 20% electoral votes that equally spread in over than 15 provinces of Indonesia. NU was not able to do so as it is very much parochial. Its members are concentrated in only East Java and some areas of Central Java.

Mega-Akbar coalition will hamper Amien Rais's chance to win the presidential election. Amien already warned that such coalition would not bring any political benefit at all for Indonesia, as it would only strengthen the political fragmentation

between nationalist-secular block and the Islam-religious block. Though tough, there is still much time for Mega to ponder the existing possibilities.

No other potential candidate has enough popularity to compete with the three candidates mentioned above. The current positions of Megawati, Amien Rais and Akbar Tandjung as government officials and media's constant preoccupation with elites' maneuvers have indirectly benefited them. If this remains the case, it is hard to expect that the 2004 direct presidential election would provide Indonesia with a true chance to elect reliable and reform-minded president and vice president.

The Voters & Popular Participation

On 12 February 2004, after around 1.5 months delay, KPU announced the final counting of 147.219 million voters, or approximately 67% of total population. The mapping of the plural Indonesian voters is crucial not only for election strategies per se but, more importantly, the outlook and potentials of greater popular participation.

While it has been common to identify voters by their religious or nationalistic orientation for strategic purpose, alternative yet equally critical identification is necessary to understand the heterogeneous nature of Indonesian community. Crucial yet often-neglected groups are wo-

men, young voters, *diffable* voters and non-voters. Women voters will contribute 50.19% of total voters and they are a majority of the registered voters in 14 provinces. Both young voters and *diffable* voters occupy 34% and 12% of total voters respectively, while non-voters were estimated to be each 10-25%.

The new systems inevitably force voters to become more active, more critical and more cautious in gathering all relevant information concerning the elections. Other than the possibility of significant invalid votes due to the prevalent confusion of the systems, the other main concern is related to the voters' habit of choosing only political parties, instead of candidates. Without the backup of proper political education, socialization of electoral process and substance (platform and individual/institutional credibility), and mechanism for check-and-balance, the votes are prone to be manipulated by political parties. Uninformed and lazy voters will be compelled to vote for party only and allow the parties to utilize such blank votes for their own interests.

KPU has mainly been blamed for its tardy approach in establishing voter education and socialization. KPU defended its position saying that it is impossible for such a limited institution to cater for the 147 millions voters across the vast nation, unless supported by other elements of the people — be that political parties, NGOs

or other voluntary institutions (national or international).

Positive signs concerning the increasing public understanding on the elections, however, have been reflected by several surveys. The IFES's (International Foundation for Electoral System) surveys, conducted between December 2003 to January 2004, for examples, show that voters are now more aware to look closely at the political parties as well as the candidates. There are 23% of respondents who have not had any political choices, a more optimistic outlook compare to the 27% from previous survey.

Those who have had political choices seem to be in favor to major political parties. From major surveys (conducted by IRI, LSI, SSS and the Asia Foundation), it appears that voters tend to favor Golkar, followed by PDI-P in the second position. Supports for other major Political Parties have been low but relatively stable. There has been no significant support for new Political Parties.

IFES' survey on January 2003 provides similar results, where 27% of respondents are in favor of Golkar. In December 2003, however, the figure dropped to only 20%. Meanwhile, positive sentiment toward PDI-P has been low but relatively stable. In the December and January survey, the figures showed only 13% of respondents were in favor of PDI-P.

It was actually a 2% decreasing from 15.3% in the November 2003 survey.

Economic improvement agenda is the most popular agenda behind voters' decision. Security becomes the second most desirable factor. Anti corruption agenda, ironically, has not score well in the polls compare to the previous two agendas.

A notable highlight of popular participation is the National Movement Not to Choose Rotten Politicians (*Gerakan Nasional Jangan Pilih Politikus Busuk/GNJPPB*) that was launched mid December 2003. The movement gained considerable momentum and spread rapidly to the regions, including Yogyakarta, Malang, Samarinda, Surabaya, Makassar, Pontianak, Palangkaraya and others. The varieties of supporters, which include academics, students, activists, artists, religious leaders, etc and, and of programs, which range from talk-shows, concerts, demonstrations, etc, have reflected the increasing involvement of civil society in the transition.

Despite the widespread dynamics however, this moral movement has not really succeeded in penetrating deep into the society. At least, not enough to generate support, sustainability and considerable changes yet.

Elections in Conflict Areas

Electoral process will be problematic in conflict areas, such as Aceh

and Papua. In the case of conflicts in Papua, the government has confirmed that it will not impose civilian emergency status to the region. The elections in Papua will be conducted normally as it is scheduled nationally.

The crux of the complication is the new but constitutionally incorrect Province of West Papua. There have been intense debates over how the election should be conducted in this area. Should the election be included in the Papua province or should it be conducted separately in West Papua province? The latter poses great risks as this may indicate formal acknowledgement of the contested province that would lead to further unnecessary problems and conflicts. The establishment of West Papua is perhaps one of the biggest blunders of the reform period, of which the government paid less attention to the socio-cultural aspects of the Papuans than its narrow political interest thus inducing social conflicts. Elections may heat up the existing tension, therefore, the KPU must carefully decide upon this. So far, the KPU has not made any firm decision. Sooner or later, however, a decision has to be made. The most sensible decision is to conduct the elections in the Papua Province, instead of separating it.

In the case of Aceh, the elections would be conducted on the same day as it is nationally scheduled. However, as the security condition of the region is still posing uncertainty, an

extra security control might be applied to "save" the election processes. Although both the Military command and Police apparatus have pledged neutrality and full support of the elections, many doubt that civil and political rights of Acehese voters can truly be guaranteed. At least, at this point, the government has allowed international humanitarian agencies to assist the electoral process in Aceh.

The Commitment towards Peaceful Campaign

Reservations over possible mass violence during the GEs still loom in the mind of general public, nationally and internationally, as well as many political actors, government and military officials. In response to that, KPU facilitated a campaign for peaceful and democratic GEs.

The 24 political parties have signed political agreement to maintain peaceful GEs processes, particularly during the campaigning period. This agreement contains, among others, the following points:

- Respect each other's existence and freedom to move around and over the territory of Indonesia in respect to the principle of equality and to prevent any party claim over particular regions;
- Avoid all motives and forms of violence in achieving political objectives and resolving problems. Therefore, (a) party's militia is

not allowed to use "violent" instruments/outfits and to take actions similar to the authoritative actions of the police and state security apparatus, and (b) resolving problems through the acknowledged legal procedure and mechanism, or through peaceful deliberation;

- Obey and follow campaign regulations and be ready to accept legal sanctions if proven guilty of violating campaign regulations throughout the campaign period.
- Avoid any forms of political intrigue and intimidation, provocation, abuses, and the likes;
- Refrain from pre-campaign activities before the actual official period of campaign;
- Respect the outcomes of the 2004 elections decided by the KPU.

So far the implementation of this agreement has been quite convincing. Almost all political parties have restrained themselves from pre-campaign activities. The Election Oversight Commission (*Panitia Pengawas/Panwas*) has formally warned several members of some political parties after being found distributing party posters and leaflets. A.B. Susanto of PKB for the district of Jakarta I is now being investigated by the Jakarta Police, also Alvin Lie of PAN in Semarang, Central Java.

The government has been using the media to promote this peaceful

campaign movement. So far, the media has been the spearhead of the overall campaign, especially electronic mass media. TNI Commander in Chief, General Endriarto Hartono, has also made several strong statements indicating the military's commitment.

The non-apparent political heating during pre-campaign period might be a positive sign leading to a true peaceful election campaign. However, other than the tense conflict between PDI-P supporters and Golkar supporters in Buleleng, Bali, there are also several regional incidents, where local supporters of a major political party tried to obtain support through forceful intimidation. If local Elections Supervisory Committee (*Panitia Pengawas/Panwas*) and security apparatus fail to prevent/stop such incidents, it may snowball into a greater conflict during sensitive points of the GE, such as: campaigning period and announcement of electoral results.

Controversy on Akbar Tandjung's Case

The judicial process of Akbar's Bulog case has long been the most important parameter of judicial reform in Indonesia. After two delays, the controversial Supreme Court's decision finally came out on 12 February 2004, not late in January as planned. The Central Jakarta District Court charged Akbar Tandjung guilty for the

Rp 40 billion (US\$4.7 million) corruption case involving State Logistics Agency (Bulog) funds and sentenced him for four years in jail. After Akbar's appeal, the Jakarta High Court defended the verdict, but reduced his jail sentence to three years.

Legally speaking, according to Todung M. Lubis, nobody could change the high court's decision. Although a public examination of the verdict could be conducted, the findings (be that mistakes or affirmations) could only be taken as a lesson in handling future cases.

The second controversy behind Akbar's acquittal rests upon the contention that Akbar only followed an official instruction of his superior then, President B.J. Habibie. At that position, his action cannot be classified a legal offense, even though Akbar held the highest responsibility for the corruption case. The decision was not a unanimous decision taken by all judges. One of the five judges, Abdul Rahman Saleh, was in opposition to the decision.

Two of the most disturbing ramifications are related to the credibility of Indonesian judicial system and the national campaign against corruption. At the height of transition, Indonesia's progress towards reform that relies heavily on the supremacy of the rule of law has stagnated, if not receded, by the politization of Akbar's acquittal. The check-and-bal-

ice process of democracy would be eatly severed and there will be no spect left for the judicial system nongst the people. The spate of emonstrations pressuring the court rring Akbar's trial is indicative of e people's lack of trust towards the dicial institutions.

As if the Bulog case itself is not ough to tarnish the anti-corruption ovement in the country, there has en strong suspicion that the judges ve been bought. Not only due to e absurdity of the decision, but any of Akbar Tandjung's supporters d been so sure about the decision r before the Supreme Court dropped s sentence. Many suspected that e two court delays were triggered ss by the judges' indecisiveness an backroom deals and political aneuverings. Such maneuvers may impelled by the fear of other parties at might also have received the rrupted funds.

Restoring the Political Rights of the Ex-Member of Communist Party

The Constitutional Court (CC)'s ost recent achievement is the restoration of the political rights of the ex-members of the Indonesian Communist Party (PKI). This decision was made in response to the appeal of human rights activists, who argued that the Law No. 12/2003 on the General Elections is unconstitutional. Article 60G of the law prohibits ex-members of PKI and its related organizations to

have the right to be elected in the 2004 Elections. This article is considered to be discriminative and contradictory to Article 28D of the 1945 Constitution, which guarantees the equal rights and opportunities of every citizen of Indonesia to participate in the government. The decision will come to force in the 2009 General Elections, and thereby, should lead to the process of amending the Law 12/2003.

This decision is one of several decisions signifying the crucial role of the CC in Indonesian political transition. As stated by the Chairperson of the Court, Prof. Jimly Assidiki, the CC should be a solution, not a nightmare, for the country's constitutional problems. In a larger political context, the decision paves the way for a strategic vision of upholding equal rights to all Indonesian citizens and political reconciliation between conflicting groups.

REGIONAL AUTONOMY UPDATE

Debates on the Revision of Law 22/1999

Two groups of regional government associations are debating the process as well as the substance of the revision of Law 22/1999. The first group consists of four associations of regional governments (APKASI and APEKSI) and regional councils (DPRD) (ADKASI and ADEKSI). In a joint statement, the group has urged

the Government and the National Parliament (DPR) to delay the revision of Law 22/1999 on Regional Government until after the General Elections in April 2004, and criticized the Government for its failure to involve regional and national stakeholders in the ongoing process of the revision of the Law.

In the statement, the four associations underlined their full commitment for achieving the objectives of the regional autonomy policy, i.e., democracy and the welfare of the people. They emphasized that problems emerge in the implementation of Law 22/1999 because of the unclear formulation of several stipulations, which can create conflicting interpretation. They deplored the current efforts of the Government to revise Law 22/1999 because the formulation process so far did not involve actively and comprehensively all governmental and non-governmental stakeholders both at regional and national level.

The associations made two key suggestions: the revision of Law 22/1999 to be delayed until after the General Election in April 2004, and the issue of direct election of the *Kepala Daerah* to be stipulated in a separate law. They also argue that the revision of Law 22/1999 should involve the new *Dewan Perwakilan Daerah* (DPD), whose members will be elected for the first time in April 2004.

Contrary to the associations from the first group, the second group consisting mainly of the Association of Provincial Governments (*Asosiasi Pemerintah Provinsi Seluruh Indonesia/ APPSI*) favors a revision of Law 22/1999 before the April 2004 election. According to the Chairman of APPSI, DKI Jakarta Governor Sutiyoso, following a meeting with President Megawati on 1 December, the President had supported such a time frame and had promised that the revision of Law 22/1999 would be a priority for the Government to be finalized before the election. Sutiyoso said the Governors wanted a quick revision of the law because presently there is no clear structural or hierarchical relationship between the provincial and the local (*kabupaten/kota*) level. APPSI wants to strengthen the role of the province by the additional transfers to the provincial level of functions still being held by the central government (like the management of sea ports in Jakarta and Java, and the continuing management of certain areas in DKI Jakarta). Sutiyoso furthermore suggested to delete the paragraph in Law 22/1999 stipulating that there is no hierarchical relationship between the province and the local level.

Special Autonomy in Papua

The Government plans a revision of two conflicting laws regarding Papua: Law No. 45/1999 (which estab-

hed three provinces in Papua) and Law 21/2001 (which provides for special autonomy for Papua). According to Law 21/1001, the establishment of new provinces in Papua requires the approval by the Papuan People's Assembly (MRP). The Government wants to revise Law 21/2001 in such a way that the mentioned stipulation refers only to new provinces established after Law 21/2001 came into force. The controversial establishment of the provinces of Central Irian Jaya and West Irian Jaya would then exempt the need to seek the approval

of the MRP. The revision of Law 21/2001 would furthermore clarify that the special autonomy would be applicable to all provinces of Papua.

For many Papuans as well as many observers, the Government plan to revise the Law 21/2001 cannot be accepted at all. It should be the Law 45/1999 that has to be banned as it would be automatically invalidated with the introduction of the Law 21/2001. This plan would only create another political tension in Papua and prolong the complicated problem of Papua unsolved.

CHALLENGES FACING THE ASEAN PEOPLES

Published by: Centre for Strategic and International Studies (CSIS), Jakarta.

This book is the proceedings of the second ASEAN People's Assembly (APA) held in Bali from 30 August to 1 September 2002. With the theme 'We the ASEAN People and Our Challenges', APA 2002 was meant to be an effort made by civil society in Southeast Asia to change the paradigm of governance and societal development in Southeast Asia — from one that is state security oriented to the one that is more human security oriented.

Apart from the summary of and major suggestions made at the meeting, the background papers prepared by a number of speakers are also included in this publication.

This book is recommended for those who are interested in examining the broad range of challenges faced by the ASEAN peoples and the ideas about people-oriented programs and action plans to respond to those challenges.

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CHALLENGES FACING THE ASEAN PEOPLES

REVIEW OF ECONOMIC DEVELOPMENT

The Indonesian Economy: Moving along the Path of Modest Growth

Staff, Department of Economics, CSIS

GROWTH IS PICKING UP PACE

THE Indonesian economy continues to strut along the moderate growth path, led by consumption and exports, posting a modest rate of 4.1% in 2003. Unfavorable international as well as domestic events, such as the Marriott bombing, Iraq war, SARS and the decision not to extend the program with IMF, all had a limited effect on growth, indicating a more resilient economy. Despite the vibrant macro picture, there are still concerns over the gap between macroeconomic growth and real sector performance, the signs of creeping protectionists in Indonesia's trade policy, and political pressures amid the run-up for the General Election. Nevertheless, the outlook for 2004 remains positive, due to the upbeat business sentiment, continuingly heal-

thy macroeconomic fundamentals and a favorable external environment. Moreover, there are signs that improved macroeconomic conditions have started to trickle down into greater business opportunities for enterprises. Against this backdrop, our growth forecast for 2004 would be 4.5-5%.

Consumption Still The Main Source of Growth in 2003

Both private and government consumption continue to drive economic growth (Table 1). Private consumption, especially non-food consumption, grew at 4% in 2003, and contributed to around 68% of GDP. Total consumption accounted for 80% of GDP growth in 2003.

Declining inflation, low interest rates and expanding credit, supported

the boost in consumption. Should these continue to prevail, increased spending of the political parties leading to the elections will boost consumption even further (in the 1999 general election, food consumption grew by 5%). This prediction is confirmed by rising consumer confidence indices. Both Bank Indonesia and Danareksa's survey of consumer confidence, show that consumer confidence has increased considerably, albeit at declining rate, since January 2003 (Figure 1).

Investment Still Weak in 2003, but Expected to Pick Up This Year

Despite the declaration of 2003 as Indonesia's 'Investment Year,' the growth of gross fixed capital formation, remained weak throughout 2003 (Table 1). Investment only grew by 1.4%, and contributed to only 7% of GDP growth in 2003.

However, there are some signs that indicate the possibility of investment to pick up in 2004. Danareksa's business sentiment index (BSI) continues

Table 1

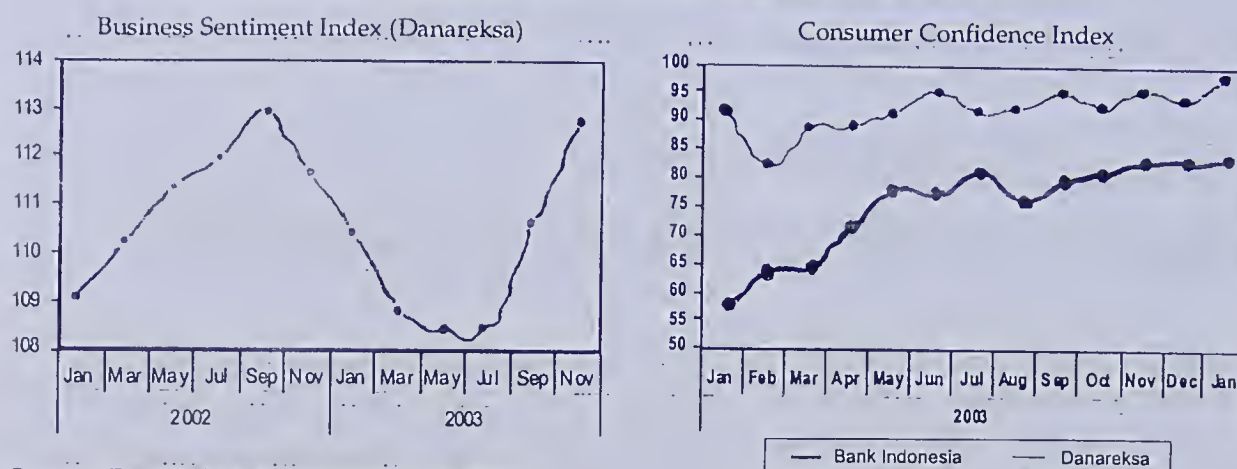
GDP GROWTH BY EXPENDITURE, 2003

| | 2003 | | | | |
|--|--------|------|-------|------|-------|
| | Q1 | Q2 | Q3 | Q4 | Total |
| GDP Growth | | | | | |
| Private Consumption | 3.9 | 3.9 | 4.2 | 4.1 | 4.0 |
| <i>of which food</i> | 2.2 | 2.5 | 2.1 | 1.8 | 2.1 |
| <i>of which non-food</i> | 5.6 | 5.3 | 6.2 | 6.3 | 5.9 |
| Government Consumption | 6.3 | 10.7 | 9.6 | 12.1 | 9.8 |
| Gross Domestic Fixed Capital Formation | 4.3 | 1.1 | (0.4) | 0.7 | 1.4 |
| Change in Stock | (19.9) | 46.8 | 6.1 | 16.1 | 11.3 |
| Exports on Goods & Services | 2.9 | 4.0 | 2.8 | 6.5 | 4.0 |
| Imports on Goods & Services | 5.5 | 0.0 | 0.8 | 1.8 | 2.0 |
| GDP | 4.4 | 3.6 | 4.0 | 4.4 | 4.1 |
| % Contribution to Growth | | | | | |
| Private Consumption | 61 | 74 | 71 | 67 | 68 |
| <i>of which food</i> | 17 | 24 | 18 | 15 | 18 |
| <i>of which non-food</i> | 44 | 51 | 53 | 53 | 50 |
| Government Consumption | 11 | 23 | 20 | 26 | 20 |
| Gross Domestic Fixed Capital Formation | 21 | 6 | (2) | 4 | 7 |
| Change in Stock | 18 | (35) | (3) | (28) | (11) |
| Exports on Goods & Services | 18 | 31 | 19 | 42 | 27 |
| Imports on Goods & Services | (29) | (0) | (4) | (10) | (11) |
| GDP | 100 | 100 | 100 | 100 | 100 |

Source: BPS

Figure 1

BUSINESS SENTIMENT AND CONSUMER CONFIDENCE INDEX



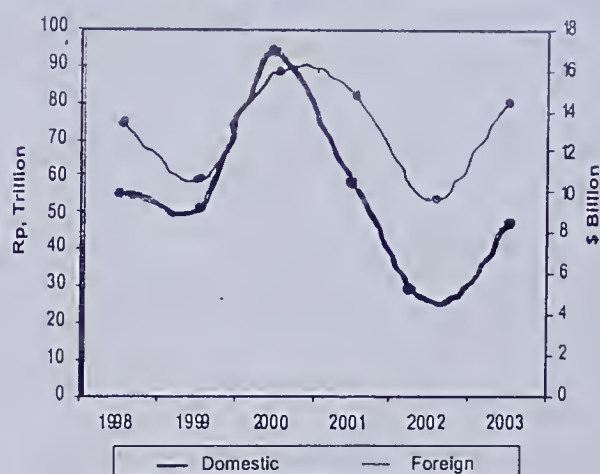
Source: Danareksa, Bank Indonesia, BPS.

Figure 2

INVESTMENT GROWTH AND INVESTMENT APPROVAL

| Year on year growth Investment | 2003 | | | | 2003 Total |
|-------------------------------------|--------|--------|--------|--------|------------|
| | Q1 | Q2 | Q3 | Q4 | |
| Construction | 5.8 | 6.5 | 7.3 | 7.1 | 6.7 |
| Machine & Appliance (Domestic) | 0.1 | 2.0 | 7.4 | 0.7 | 2.5 |
| Machine & Appliance (Foreign) | (7.0) | (18.2) | (26.5) | (23.5) | (19.2) |
| Transportation Equipment (Domestic) | 30.9 | 1.8 | (2.5) | 14.3 | 10.2 |
| Transportation Equipment (Foreign) | (22.9) | (33.5) | (42.4) | (35.1) | (33.5) |
| Others (Domestic) | 27.0 | (2.1) | (13.7) | 3.8 | 2.5 |
| Other (Foreign) | 5.6 | (6.4) | (10.3) | (10.6) | (5.9) |
| Total | 4.3 | 1.1 | (0.4) | 0.7 | 1.4 |

Source: Danareksa, Bank Indonesia, BPS



to increase since July 2003 (Figure 1). The survey conducted by Danareksa also revealed the high confidence of the business people that economic recovery is underway. This argument is backed by investment approval figures, particularly from the domestic sources (Figure 2). Domestic investment approvals almost doubled from Rp 25 trillion in 2002 to Rp 49

trillion, while approvals of foreign direct investment (FDI) increased from \$9.8 billion to \$13.2 in 2003.¹ Nevertheless, without major improvements in the investment climate, such a rebound is likely to be modest.

¹A cautionary note should be added here that most of the FDIs in 2003 were acquisition, and not greenfield investments.

Exports and Imports Show Modest Growth

After its disappointingly weak performance, at around 3-4%, during the first three quarters of 2003, export growth picked up to 6.5% in the fourth quarter of 2003, contributing to 42% of GDP growth (Table 1). The low growth in manufacturing exports, the retrieval of foreign-owned firms, who were the main drivers for export growth prior to the crisis and the appreciation of the Rupiah since 2001 are among the factors that contribute to the relatively weak export performance.²

A note of optimism should be added here with regard to export competitions from China. It is true that Indonesia is losing competitiveness *vis-à-vis* China in low-skilled-manufacturing products. However, China is also emerging as a center for regional production network, in which Indonesia can participate.

Production Account: Manufacturing Growth Remains Weak

On the production side, three large sectors —agriculture, manufacture and trade, hotel and restaurant— performed poorly. Manufacturing growth picked up, albeit very slowly, from 1% in the first quarter to 3.9% in the fourth quarter, or a 3.5% average in

2003, far below the pre-crisis growth rate of 12-13% (Table 2). As a result, the contribution of the manufacturing sector to growth increased from 18% to 24%. Before the crisis, from 1993-1996, manufacturing sector contributed 30-35% to growth. Meanwhile, transport and communication, construction, and electricity, gas and water, grew at rates far higher than GDP growth.

Sluggish growths in several large manufacturing sectors, such as food products, textiles and garments, wood and wood products, and iron and steel industries were behind the slow growth of the manufacturing sector. Some sectors, such as chemicals, paper and printing, cement, and miscellaneous manufacturing products performed well in 2003. However, growths in these sectors were too small to compensate the slow growths in the larger sectors mentioned previously.

MONETARY DEVELOPMENT: LOW INFLATION AND INTEREST RATES ENCOURAGED ACTIVITIES IN THE BOND AND STOCK MARKET

Inflation Kept Low in 2003

Inflation in 2003 stood at 5.06%, among the lowest in Indonesia's history. Both domestic and external factors came into play in keeping the inflation low, such as monetary discipline and improved confidence, which kept the Rupiah stable, while

²World Bank (2003).

Table 2

GDP GROWTH BY PRODUCTION, 2003

| | 2003 | | | | |
|------------------------------|--------------|--------------|--------------|--------------|--------------|
| | Q1 | Q2 | Q3 | Q4 | Total |
| GDP Growth | | | | | |
| 1. Agriculture | 5.5 | 1.2 | 3.1 | -0.2 | 2.5 |
| 2. Mining | -1.1 | 1.0 | -1.3 | 3.2 | 0.5 |
| 3. Manufacturing | 3.1 | 3.4 | 3.6 | 3.9 | 3.5 |
| 4. Electricity, Gas & Water | 4.8 | 5.6 | 7.1 | 9.5 | 6.8 |
| 5. Construction | 5.8 | 6.5 | 7.3 | 7.1 | 6.7 |
| 6. Trade, Hotel & Restaurant | 4.4 | 3.6 | 3.0 | 4.1 | 3.7 |
| 7. Transport & Communication | 11.1 | 7.8 | 10.8 | 13.0 | 10.7 |
| 8. Business Services | 7.9 | 7.0 | 6.3 | 4.1 | 6.3 |
| 9. Services | 3.0 | 3.3 | 3.5 | 3.9 | 3.4 |
| GDP | 4.4 | 3.6 | 4.0 | 4.4 | 4.1 |
| % Contribution Growth | | | | | |
| 1. Agriculture | 20.4 | 5.3 | 13.2 | -0.6 | 9.7 |
| 2. Mining | -2.2 | 2.5 | -3.0 | 7.0 | 1.1 |
| 3. Manufacturing | 18.4 | 24.6 | 23.3 | 23.7 | 22.4 |
| 4. Electricity, Gas & Water | 1.9 | 2.7 | 3.1 | 4.0 | 2.9 |
| 5. Construction | 7.6 | 10.5 | 10.8 | 10.3 | 9.8 |
| 6. Trade, Hotel & Restaurant | 15.8 | 15.6 | 12.0 | 15.2 | 14.6 |
| 7. Transport & Communication | 19.0 | 16.9 | 21.4 | 24.9 | 20.7 |
| 8. Business Services | 12.7 | 13.5 | 11.1 | 6.9 | 11.0 |
| 9. Services | 6.5 | 8.4 | 8.1 | 8.6 | 7.9 |
| GDP | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |

Source: BPS

stable food supplies staved off further pressure from the food sector. At the same time, however, the world in 2003 and early 2004 appeared to stay in a low-inflation mode; inflation in Indonesia in 2003 was the highest in South-east Asia.

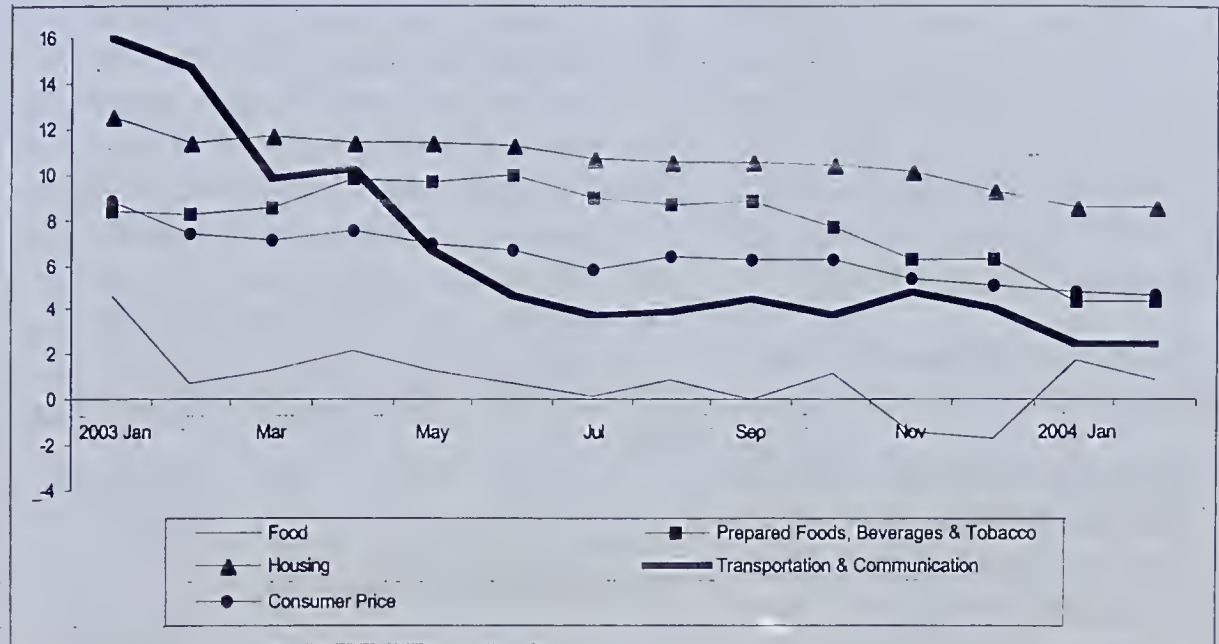
The declining trend of inflation continued well into the first two months of 2004. Yearly inflation continued to decline from 5.06% in December 2003 to 4.82% and 4.60% in January and February 2004 respectively.

In January, food prices became the main source of inflation, contributing 0.35% out of the 0.57% to monthly rise in total consumer prices, followed by housing and utilities, which contributed 0.11% to the total inflation (Figure 3). In February, the decline of food prices was also the significant factor that drove the overall inflation to the negative level.

However, there is a possibility for inflationary pressures to rise in the first half of 2004, as a result of the rice im-

Figure 3

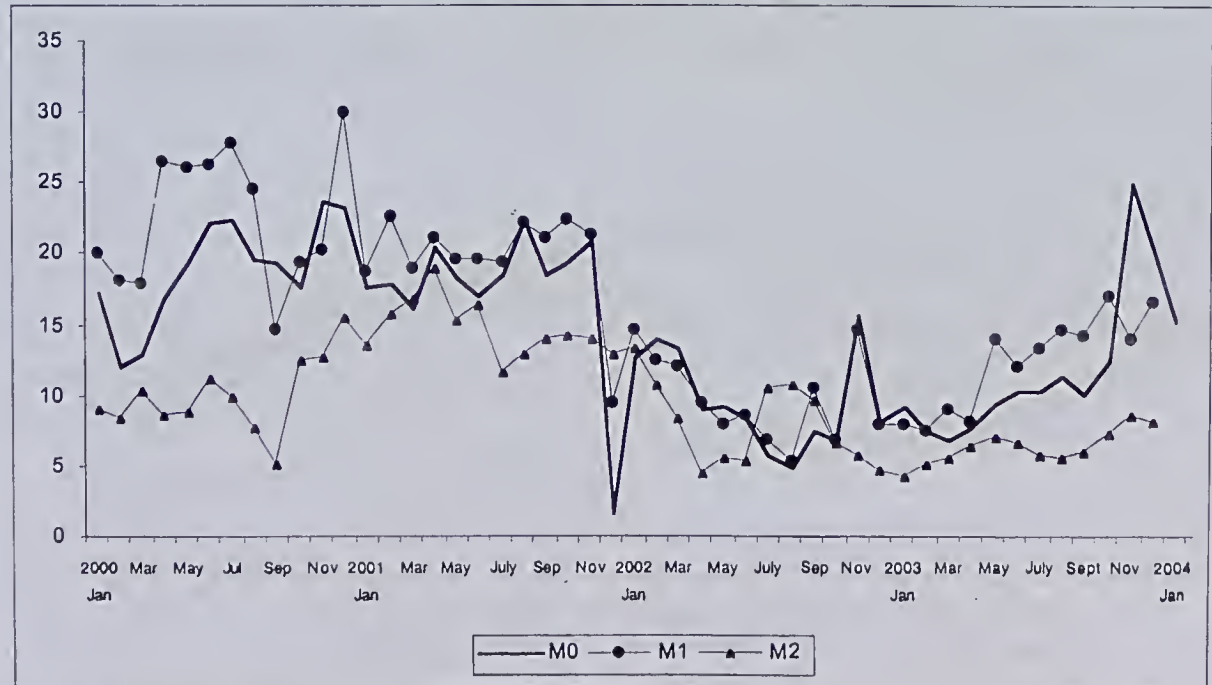
INFLATION (Y-O-Y)



Source: BPS.

Figure 4

GROWTH OF THE MONEY SUPPLY (Y-O-Y)



Source: Bank Indonesia.

port ban (effective January-June 2004), and the increased demand in the upcoming elections. These pressures, combined with populist policies that tend to come in an election year, will pose a challenge for the central bank to achieve its stated inflation target of 5.5%. As such, inflation is expected to hover around 5.0-6.0% in 2004.

Money Base Growth above Target in Q4 2003

November and December 2003 saw the money base standing at Rp 175.5 and 166.5 trillion, or 17.6% and 13.6% above the central bank's indicative target, as year-end seasonal pressures created an upward push in money demand. The array of festivities

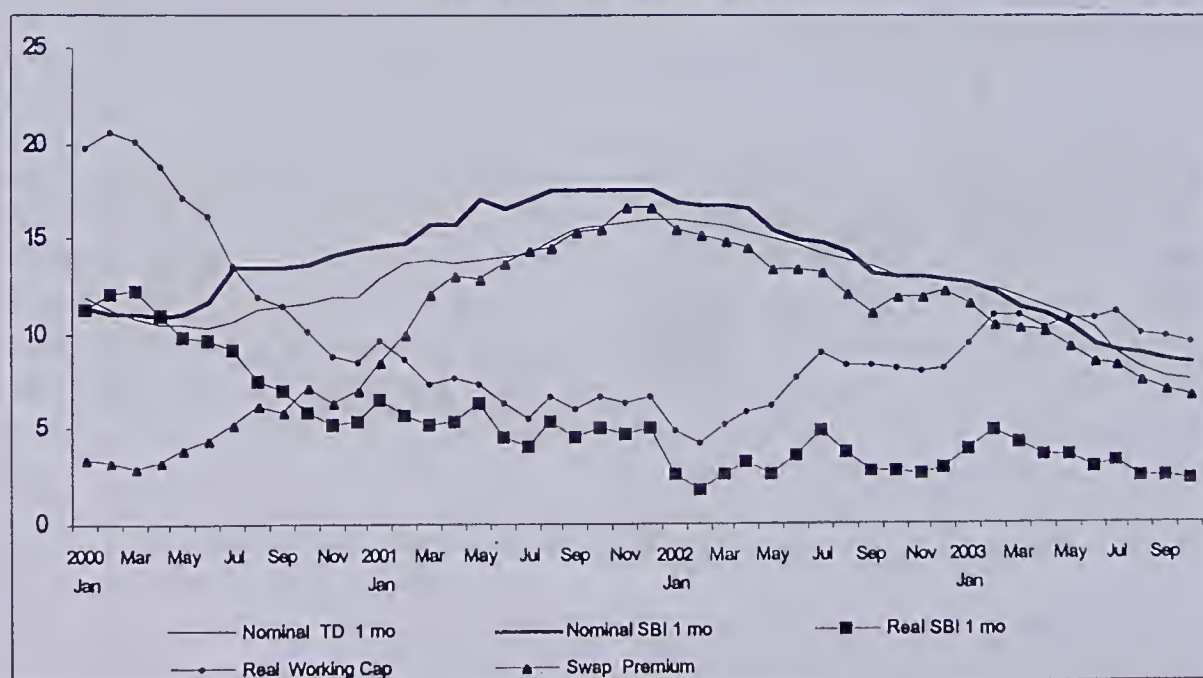
pushed base money growth upwards, peaking at 25.1% in November, only to drop slightly to 20.4% in December 2003 and further down to 15.4% in January. Seasonal pressure also upped the demand growth for currency, pushing it upwards to 19.3 and 17.2% in November and December respectively, up from 13.7% in October 2003. Meanwhile, M2 continued to grow from 7.4% in October to 8.6 and 8.1% in November and December respectively.

Excess Liquidity, Low Inflation Brought Interest Rates Down

Riding on the basis of low inflation and stable exchange rate, Bank Indonesia continues to promptly

Figure 5

VARIOUS INTEREST RATES



Source: Bank Indonesia.

lower interest rate on one-month SBI notes. It fell from 8.24% in the beginning of 2003 to as low as 7.48% in late February 2004. As the rate of inflation decline is faster than the interest rates decline, real interest rates remains high. As such, the banking system experiences excess liquidity which has yet to trickle to the real sector. Lending rates for working capital remained high at 15.07%. Increasing income from the SBI, due to the increasing margin between one-month SBI and one-month time deposit interest rates (it went up from 0.99% in September to 1.69% in December 2003), has kept the banking sector reluctant to lower lending rates.

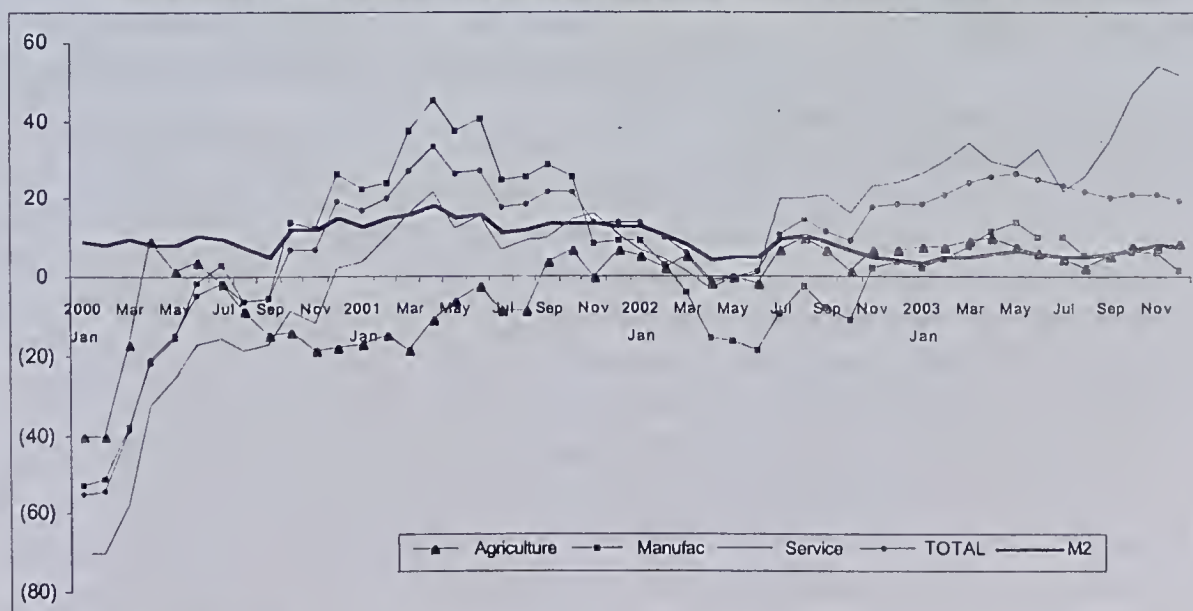
With excess liquidity in the banking sector, high real interest rates, and low inflation, we expect a further decline in interest rates. Given the upcoming inflationary pressures, Bank Indonesia would be watchful of inflation when lowering the interest rates, but a three-percent real interest rate provides enough room for further decline.

Credit Growth Stable, Driven By Consumption

Yearly growth of credits continued to be in the positive for most sectors in the fourth quarter of 2003, except for the mining sector, which grew by -6.68% and 16.96% in the last two

Figure 6

COMMERCIAL BANKS' OUTSTANDING CREDITS AND M2 GROWTH



Source: Bank Indonesia.

months of 2003. Uncertainties, rising from contradicting national and local regulations, continued to plague the mining sector. Meanwhile, the sectors that experienced the highest growth for the fourth quarter, were services (51.07%) and trade (27.70%).

Consumption credits continued to increase its importance in the banks' lending portfolio *vis-à-vis* investment and working capital credits, as their share of total credit reached 25.6% in December 2003, up from 23.9% in September. Meanwhile, credit growth for investment and working capital declined from 17.4% and 16.9% at the end of Q3 to 13.7% and 14.3% respectively by the end of Q4. This poor credit growth (investment and working capital) can be attributed to the absence of the incentive to lend to the real sector, as a result of the margin between the SBI and the deposit rates and corporate risks.

Attractive Bond Market, A Stable Currency and A Bullish Stock Market

The bond market continued to become an attractive investment instrument as interest rates kept its downward trend. As of 25 January 2004, the government still has Rp 159.1 trillion worth of fixed rate bonds traded in the market, up from Rp 153.3 trillion in the end of October 2003. Meanwhile, the total value of variable rate bonds declined to Rp

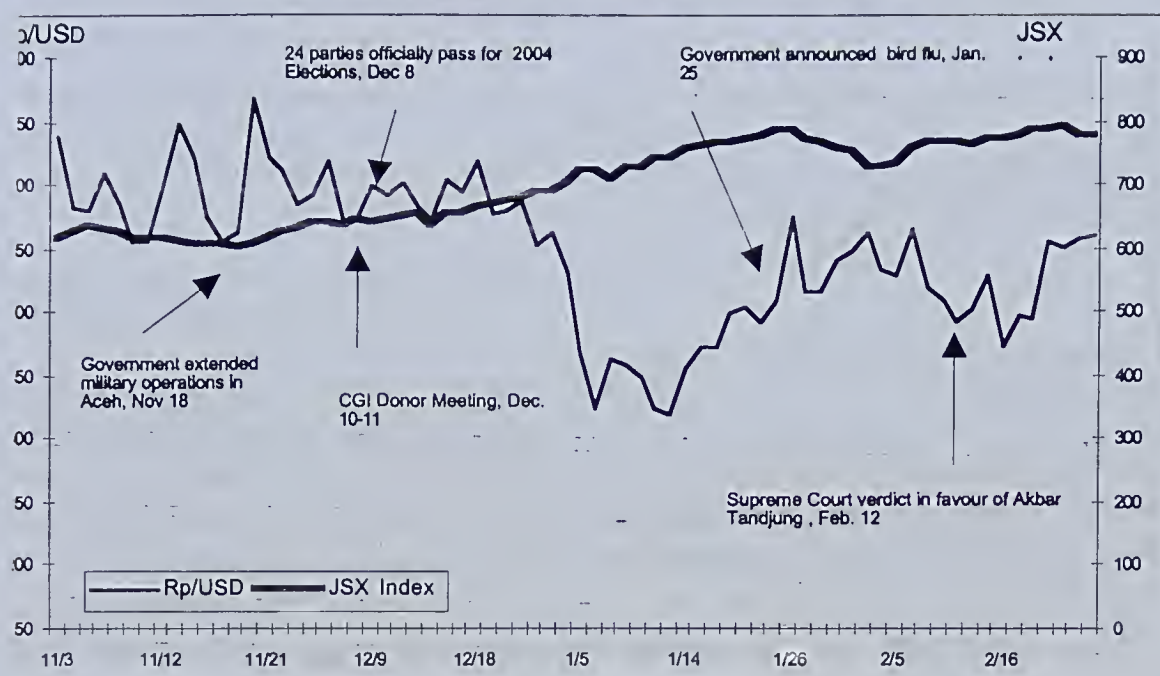
225.6 trillion from Rp 230.7 trillion in October 2003. On February 24, 2004, the government issued another Rp 2.5 trillion worth of fixed rate bonds in the market. Their high yield relative to interest rates kept these government bonds very attractive — the auction was oversubscribed by 2.14 times.

Meanwhile, declining interest rates also resulted in a bullish stock market. Low interest rates, coupled with the overall positive sentiments about the economic and political conditions in 2004, contributed to a rise in the Jakarta stock market index. The index experienced a 69% surge, compared to the beginning of 2003. The trend continued well into 2004, as the stock market index continued its climb, reaching 785.9 by mid-February — another 13.4% increase in the first two months of 2004. However, this rise might halt for a while as investors observe the elections unfold.

The absence of any major shock to the economy, combined with generally positive sentiment of the economy, had kept the currency stable in the last quarter of 2003. In Q4-2004, Rupiah fluctuated between Rp 8,350 and Rp 8,570 per US\$. The currency maintained its stability in the first two months of 2004. It appears that in general, speculation on the currency has been minimal — even news of the bird flu and other significant political news had very little impact on the cur-

e 7

THE EXCHANGE RATE AND THE STOCK PRICE



ty. With the absence of major disturbances during elections, exchange rates are expected to maintain its stability at between Rp 8,250 - Rp 8,700 per

BALANCE OF PAYMENT

Exports Growth Modest

Exports in 2003 reached US\$61 billion, an almost 6% yearly growth. Its substantially higher export growth for the past three years was due to the oil price hike and the increase in manufacturing exports volume. Oil and gas exports, about 6% of total exports, increased by 5%, while manufacturing exports, about 66% of total Indonesian exports, grew at 4.7%.

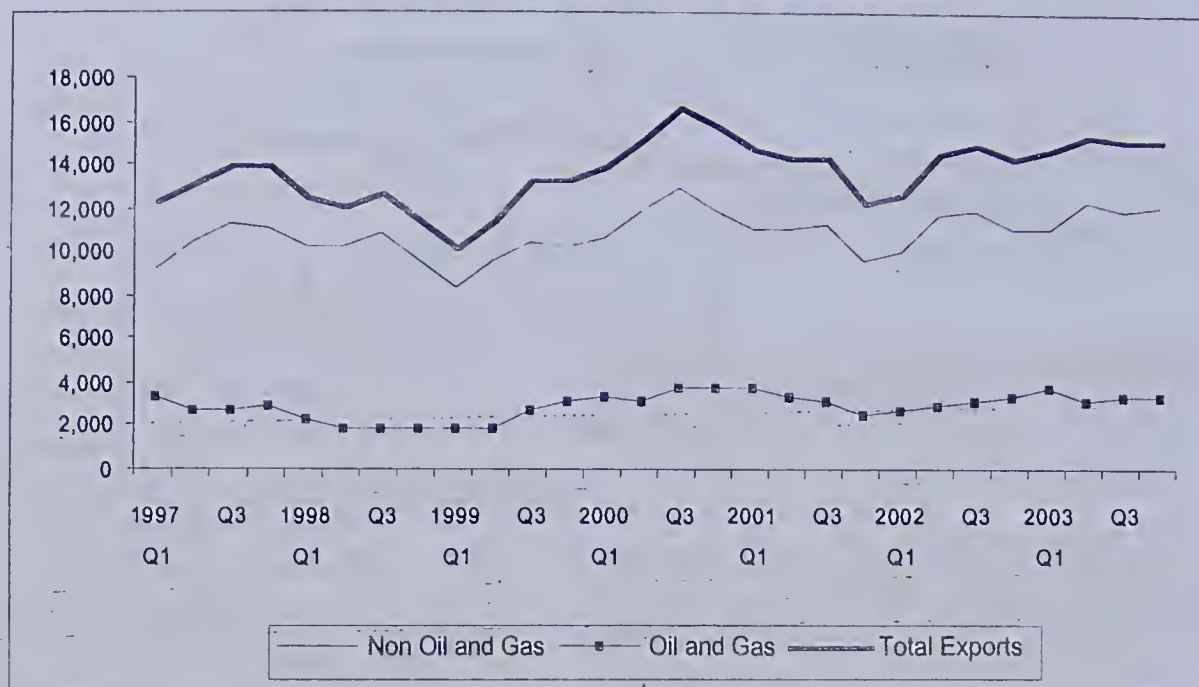
Manufacturing exports growth was driven by machinery and electrical equipments, animal/vegetable fats and oils, not-knitted garments, articles of apparel accessories and footwear. Altogether those products accounted for about 35% of total manufacturing exports.

US, Japan, and Singapore continued to be the major export destinations, accounting for about 39% of total Indonesian non-oil exports. China accounted for about 6% of total Indonesian non-oil and gas exports and continued to be the fourth largest Indonesian export market. Export to China continued to show a rapid growth of 22% (y-o-y).

With increasing world demands, we predict that exports will continue

Figure 8

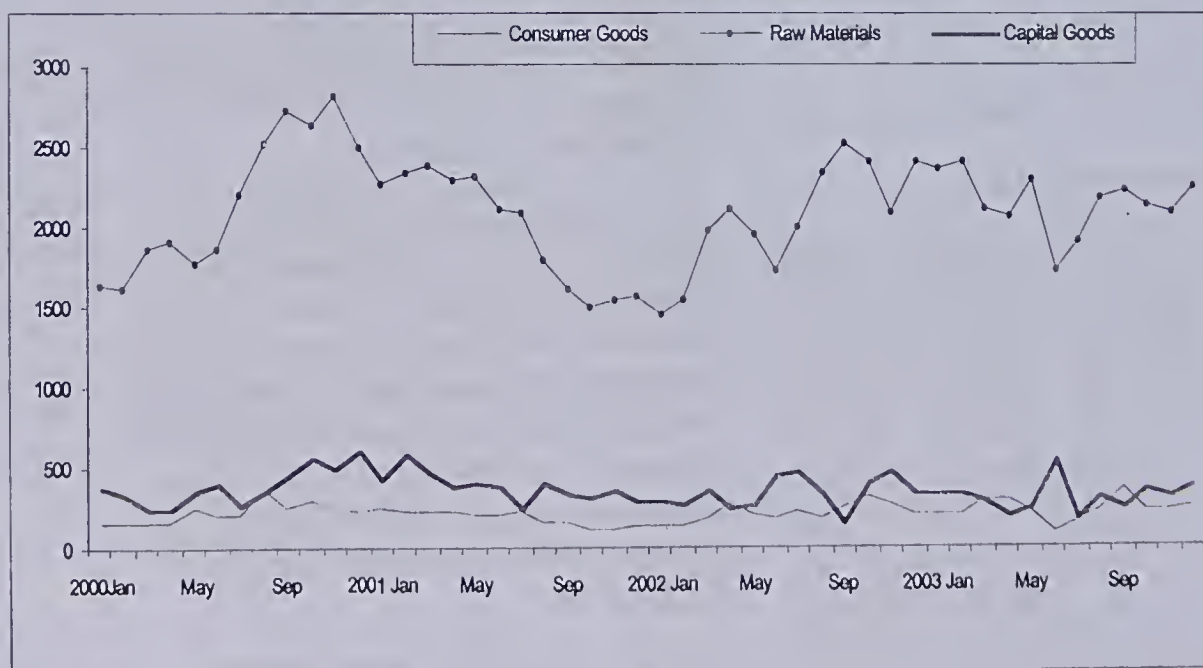
EXPORT VALUE (MONTHLY DATE 2001-LATEST)



Source: BPS

Figure 9

IMPORT VALUE 2001-LATEST (BY CATEGORY)



Source: BPS

ncrease in 2004. However, capacity constraints might prevent export growth from reaching its pre-crisis level of 10% per annum. Limited investments of the past several years might constrain export growth to a level of 6-7%.

Consumption, Raw Materials, but not Capital Goods, Imports Grew

Imports reached US\$32.4 billion, a 1.5% yearly growth. The increase came mainly from increased imports of consumption goods, raw materials and intermediate inputs. Meanwhile, import of capital goods continued to decline, and contracted by 9% (y-o-y) in 2003.

With the relatively stable exchange rates, imports growth would be modest in the first half of 2004. The increase in imports is expected to come from consumption goods due to increased spending for campaign and election purposes. Meanwhile, imports of raw materials and intermediate inputs would follow exports and. In contrast, import of capital goods would remain weak for a while, but it is expected to increase after the conclusion of successful elections.

Current Account Surplus Grew

In the first nine-month of 2003, the current account surplus reached US\$6.9 billion, 8% higher than that of the same period last year. This higher current account surplus was

due to a higher merchandise trade surplus and a slightly lower services account deficit. We predicted that current account surplus for 2003 would be higher than the previous year given that net merchandise export for 2003 was about US\$28.6 billion, which was much higher than that of the previous year.

Capital Account: FDI Stagnant in 2003

The first nine months of 2003 saw no improvement in private capital flows. Net FDI flows continued to be negative, at US\$0.35 billion, mainly due to a small inflow but a large outflow of capital for debt repayments. Although the deficit was relatively small, it signaled a 'wait and see' attitude of foreign investors. Portfolio investments continued to be in the positive. The first nine months of 2003 recorded a US\$0.8 billion net inflow of portfolio investment. Given rising stock prices, we predict that the net inflow this year would not be higher than that in 2002.

The BKPM data on investment approvals also indicate similar trends: investors take a 'wait and see' position in making a long-term commitments in Indonesia. In 2003, FDI approval stood at about US\$14.7 billion, a 50% increase than that in 2002. However, the actual investment (realized FDI) for the particular year was as small as US\$5 billion. Another estimate, provided by Central De-

velopment Planning Board (*Bappenas*), also suggested a declining trend of realized investment for the period of 2000-2003.

FISCAL ISSUES: TAX REFORM AND PRIVATIZATION

Amendments To The Tax Laws

In order to increase revenue from tax collection, the government is planning to reform the tax system by proposing several revisions to the current tax laws. The Directorate General of Taxation, under the Ministry of Finance has drafted amendments to three tax laws: Law No. 16/2000 on general taxation arrangements and procedures, Law No. 17/2000 on income tax, and Law No. 18/2000 on value-added tax on goods and

services, and luxury sales tax. The revisions, as part of the government's action plan described in the post-IMF white paper, are aimed at simplifying the personal income tax system and broadening the taxpayers' base.

The major highlights of the revisions on General Taxation include the broadening of the authority of the directorate general of taxation in order to provide more legal basis in tax collection, simplification of tax payment procedures and restitution process, and the inclusion of procedures of tax amnesty. The latter is believed to be in response to the business society's claim that it would help current business condition and encourage more investment to come. In addition, the tax office will have the authority to investigate tax crimes

Table 3

AMENDMENTS TO LAW ON INCOME TAX

| | Current Regulation | New Regulation | |
|---|--|---------------------------------|---------------------------|
| Tax on mutual funds | Gain from mutual fund is not a subject of income tax | Will be a subject of income tax | |
| Tax on corporations and institutions | 10%-30% based on income brackets | 28% | |
| Tax for individuals with annual income: | Current Regulation | New Regulation | |
| | | Registered Tax Payers | Non-Registered Tax Payers |
| Up to Rp 25 million | 5% | 10% | 20% |
| Rp 25 - 50 million | 10% | | |
| Rp 50 - 100 million | 15% | 15% | 25% |
| Rp 100 - 200 million | 25% | 25% | 35% |
| >Rp 200 million | 35% | 35% | 45% |

thout first consulting the police. In some cases, it will also have authority to seize assets and bank accounts owned by taxpayers accused to be uncooperative. These additional authorities are expected to reduce tax evasions in future.

The revisions to the income tax law put as much emphasis on attempts to increase income tax collection as on improving taxpayer awareness. The draft law proposes to have a single income tax rate for corporations and institutions, as opposed to the current progressive tax rates based on income brackets. The draft law also describes the plan to withdraw tax incentives currently in place to facilitate the development of mutual funds. Under the new law, interest income from mutual funds in bonds will no longer exempt from taxation.

As an effort to raise taxpayers' awareness, the draft law also proposes to give disincentives for individual taxpayers for not having tax ID's by forcing them to pay higher taxes and changing the minimum tax bracket from Rp 25 million to Rp 50 million. An individual who does not possess a tax ID will pay a higher tax rate than those who register. For instance, a person earning less than Rp 50 million a year that does not have a tax ID must pay a 20% income tax, or double those who do. The summary of the changes proposed in the law on income tax is

presented in Table 3 below. The low number of registered taxpayers (only a little more than 1% of the population are registered as taxpayers) has been a major consideration for the government. This policy is expected to encourage more people to have their own tax ID's, a starting point that will ease tax officials' effort to achieve their tax revenue targets.

Meanwhile, the amendment to the Law on Value-Added and Luxury Goods Tax maintains the current 10% (VAT), and the extension of goods subject to VAT to include gold and parking lot services.

Several concerns have, nonetheless, surfaced over the proposed revisions, particularly on the General Taxation and Income Tax draft laws. Among the points of criticisms are concerns that ill-behaved tax officials might abuse the additional authorities given to the tax office. It is widely known that many tax officials have been taking advantage of their authority due to the lack of sanctions and controls. New regulations and compelling controls toward the abuse of power from tax officials are among the points that business society and other taxpayers demand to be included in the revisions.

Revisions on tax income also raises some concerns. While it is true that the number of people being registered as taxpayers is somewhat low, giving

disincentive of not having tax number might also be subject to abuse by tax officials. Providing incentive for having registered tax number, instead of disincentive for not having it, seems to be a more appropriate way to raise public awareness on the need to have their own tax registration number. Increasing overall public service, in addition to better information on tax procedures, would also increase people's understanding on the importance of tax to the economy.

As the debate continues, time is of the essence here. Until the end of February 2004, the government has not handed over the draft. Delaying the implementation of the new tax laws might harm the success of the government's program to make tax revenue a major source of income, and

will prolong the uncertainty on a very important economic issue.

Privatization Proceeds Slowly

In addition to revenues from taxes, the government also relies on earnings from the privatization program to cover its budget. The program recorded a success last year by obtaining Rp 7.34 trillion, higher than the targeted of Rp 6.3 trillion, thanks to the successful sales of several state-owned banks in 2003. However, of the 30 companies in the privatization program, only four of them managed to be privatized.

For this year, the government proposes to sell the remaining companies, in addition to several others, and expects to raise Rp 5 trillion to plug its

Table 4

LIST OF PRIVATIZED COMPANIES

| Company | Industry | Method of Privatization |
|---------------------|------------------|-------------------------|
| Kimia Farma | Pharmaceuticals | Strategic placement |
| Indofarma | Pharmaceuticals | Strategic placement |
| Garuda Indonesia | Airlines | IPO/Strategic placement |
| Merpati Nusantara | Airlines | IPO/Strategic placement |
| Angkasa Pura I | Airport operator | Strategic placement |
| Angkasa Pura II | Airport operator | Strategic placement |
| Pupuk Kaltim | Fertilizer | IPO |
| Perkebunan III | Plantation | IPO |
| Perkebunan IV | Plantation | IPO |
| Perkebunan V | Plantation | IPO |
| Aneka Tambang | Mining | Secondary Offering |
| Timah | Mining | Secondary Offering |
| Batubara Bukit Asam | Mining | Secondary Offering |
| Bank BNI | Banking | Secondary Offering |
| Bank Mandiri | Banking | Secondary Offering |

Source: Ministry of State-Owned Enterprise website

budget deficits. There are 28 companies to be sold this year, including an airline company, PT Garuda Indonesia, airport operators PT Angkasa Pura and several state banks including Bank Mandiri and Bank Mandiri, which were recently privatized before (see Table 4).

Table 4 above lists 15 out of the 28 companies to be privatized this year. The size of the stake in each company and the timetable for the privatization are, however, yet to be finalized. Similar to 2003, this year's privatization seems to have no exact schedule and default priority. Nevertheless, the government is very optimistic it can accomplish this program, stating that the program will be accelerated and the targeted revenue will be acquired by the first semester of 2004.

However, experience shows that the road to privatization would be bumpy. Problems will come mostly from its politics, rooted in rejections from either the parliament or the public in general, especially when dealing with recognizably strategic assets.

OTHER ISSUES

CGI Commitment Short of Expectations

In December 2003, foreign donors in the Consultative Group on Indonesia (CGI) pledged US\$2.8 billion in loans for 2004 to help fill in the government's financing gap. Of the total, US\$1 billion would be allocated for

program loans with the rest for grants and project loans. In addition, the government would receive US\$525 million in export credit, and US\$600 million in technical assistance and grants for local governments and NGOs.

This pledge was higher than last year's US\$2.7 billion, but short of the US\$3.35 billion that the government asked for. No official explanations were offered for this shortcoming. On the one hand, this might reflect doubts over the government's ability to implement reform, especially on fiscal management, without the IMF. At the same time, it could also be interpreted as reflecting confidence that the government did not need as much "extra help" from the CGI.

Meanwhile, after finishing its eleventh review of the Letter of Intent (LoI), in late December 2003, the IMF Board of Executive Directors disbursed US\$505 million to the government. This was the final payment of the total US\$5.3 billion loan pledged by the Fund in 2000.

ISSUES IN THE BANKING SECTOR

IBRA's Closure: Has It Met Its Objectives?

Indonesian Bank Restructuring Agency (IBRA) was declared closed on 27 February 2004. During its six years of operation, it recovered Rp-172.4 trillion from the banks it has taken over. IBRA still leaves some

unresolved business, including Rp 15.1 trillion worth of unsold assets. Of the remaining assets, Rp 10.8 trillion are "free and clear" assets and would be transferred to the state-owned holding company, the Asset Management Company (AMC). The AMC will be responsible to the Ministry of Finance and the Ministry of State-Owned Enterprises.

During its final days, IBRA managed to sell its remaining shares in the country's major private banks including Bank Central Asia (BCA), Bank Danamon, Bank Internasional Indonesia (BII) and Bank Niaga through a block sale on the stock market. The sales were expected to raise around Rp 1.55 trillion (US\$184.53 million) in cash. IBRA also finally managed to divest its 52% share in Bank Lippo to the Swissasia consortium at Rp 591.5 per share.

Established in 1998, IBRA was given three objectives: improve the country's banking system, recover the government funds used to bailout the banking system, and contribute to the country's economic recovery. Today, many analysts believed IBRA had failed to meet those objectives.

In 1998, IBRA took over 71 banks with liquidity problems. Of the 71 banks, 52 was shut down, 15 was merged forming two new banks (Bank Danamon and Bank Permata) after being recapitalized by the government, while

four other were recapitalized without being merged. The total cost to the government to bail out troubled banks was Rp 642 trillion, consisting of recapitalization costs and the Rp 144.5 trillion *Bank Indonesia liquidity support* or BLBI. IBRA officials claimed that the institution has recovered Rp 172.4 trillion, higher than the government and House of Representative's target of Rp 149 trillion. This, they argued, implied a 28% recovery rate — a reasonable achievement compared to several banking restructuring programs in other countries.

However, we think that the actual recovery rate is much lower for two reasons. *First*, the restructuring program in Indonesia took almost six years, while in Korea and Thailand similar programs were concluded in 2-3 years. Considering the time value of money, the three years difference should lower the recovery rate significantly.

Second, IBRA only considered the Rp 642 trillion cost in calculating the recovery rate, and failed to include the administrative costs of maintaining IBRA for six years. As part of the total restructuring costs, these administrative costs were quite significant. IBRA officials claimed that lost assets, amounting some Rp 470 trillion, were 'costs of the crisis'. However, these 'costs of the crisis' were disproportionately borne by the people through the state budget.

Was IBRA successful in improving the domestic banking system? Indeed, in the past five years, there were achievements. Capital Adequacy Ratio (CAR) increased to 8%, Non-Performing Loans (NPL) reduced to 5% from 35% in 1998, while the third-party funds in the banking sector in-

creased by 33%. But other variables indicate that the banking sector has yet to regain its intermediary role. Loan-to-deposit ratio (LDR) is still around 40-42%, compared with 72.4% in 1998. Credit growth, is still driven by growth in consumption credit, instead of investment and working capital credits.

INDONESIA: A BLUEPRINT FOR STRATEGIC SURVIVAL

Written by Nirwan Idrus



Published by: Centre for Strategic and International Studies (CSIS), Jakarta

This book presents the author's assessment of Indonesia and its potential for survival in the new millenium. Much of the assessment is based on his observasion, as a layman, of the happenings in the country. As the author claims, this is not meant to be a scientific discourse, but an applied analysis of political, economic, social and strategic governance.

In this book, Idrus explores the causes why Indonesia becomes lawless and increasingly deteriorating. For Indonesia to survive, it needs to change and transform itself. But obstacles to rapid changes are too enormous and deeply petrified. Therefore, he proposes a very long-term planning, envisioning Indonesians of the 21st century to be knowledge-based, technology-literate, law-literate, community-and society-responsible, and most importantly recognized by other peoples as having those qualities. A framework of what needs to be done in the proposed long-term planning is discussed in it.

This book is mainly useful for those who work for learning institutions, political parties; and government planning agencies. It is hoped that having gone through this book, they will seriously consider the long-term planning as recommended by the author.

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Assessing Indonesia's Human Rights Practice Post-Soeharto: 1998-2003

Hikmahanto Juwana

INTRODUCTION

INDONESIA under the Soeharto administration had been considered as a country with poor human rights practice and records. The resignation of Soeharto as President in May 1998 sparked hopes that the human rights situation would improve. This article aims to assess human rights practice in Indonesia post-Soeharto administration.

The first part of the article discusses the commitments from the three administrations, namely, the Habibie administration (May 1998 to October 1999), the Wahid administration (October 1999 to July 2001), and lastly the incumbent Megawati administration that is expected to run its full course until 2004. Each of them espouses varying levels of commitments towards the human rights during their respective terms in office. In this case, a fundamental shift from an authoritarian to democratic government coupled with per-

sonal commitments from individuals in high level government positions does not necessarily bring about improvement in human rights practice. The following section deals with legal framework with respect to human rights. In spite of having been improved significantly, legislative framework has not given any effects to the society. This is followed by an assessment on human rights institutions. During post-Soeharto administrations, there have been many institutions, both government and private, working in the field of human rights. However, the myriad human rights institutions have not contributed much to human rights conditions. The following section will assess the perception of the public towards human rights practice in Indonesia. At certain juncture the human rights are practiced excessively and the impacts have been perceived negatively by the public. As a consequence, human rights practice has faced challenges from the public.

The second part of the article assesses what has been discussed in the previous part. This part presents an assessment on human rights abuses that were conducted in the past. The presentation includes discussions on government's commitment, the legal framework, and the institutions necessary for upholding human rights. It also presents an assessment on the policies and measures of war against terror. Government policies and measures have deeply affected public perception toward the promotion and protection of human rights in Indonesia. The assumption is that the effort on war against terror has deteriorated public perception's.

ASSESSMENT ON GOVERNMENT'S COMMITMENT, LEGAL FRAMEWORK, INSTITUTIONS, AND PUBLIC PERCEPTION

Government's Commitment

In developing countries such as Indonesia, an individual who assumes high position in the government structure is considered to be important factor for significant change to happen in the country. Many developed countries, international organizations, business communities, even political elites within the country seem to subscribe to this view when change is expected. Therefore, those who hold high positions at the executive level of government institution need to be influenced.

The above had been the case when international community actively encouraged the promotion of human rights in Indonesia under the Soeharto administration. To note one example is when the international community and political elites had influenced Soeharto's government to respect human rights which resulted in the establishment of the National Commission of Human Rights or *Komisi Nasional Hak Asasi Manusia* (hereinafter referred to as "Komnas HAM") in 1993.

The following section discusses an assessment whether the commitment of the three successive Presidents in promoting human rights can deliver significant change or there has been a revision to this approach.

The Habibie Administration

Under the Habibie administration, freedom of speech had been improved significantly. However, this was not a result of the administration's intentional policy. Rather, it is because people were no longer afraid of voicing their concern even if that meant violating laws and regulations. Such people's attitude started when Soeharto was about to resign from the office in which university students' and the public held continuous demonstrations. The huge protests nationwide had become people's power which had been one of the decisive factors for Soeharto to step down.

With this improvement of freedom of speech, the public could express almost anything freely without any anxiety, including sensitive issues such as demand for Soeharto trial,¹ protest against government policies, demand for public officials to step down due to corruption, and even demand for banning the previous ruling party, Golkar.²

Unfortunately, some of the public demonstrations had been ended in violence; and sometimes they even resulted in destruction of public facilities and private ownerships.³ These caused public inconveniences and grief which in turn even brought about resentment. Demonstrations involving a very large number of people mostly have ended in face to face confrontation with the police and military that resulted in casualties and lost of lives.⁴

To curb and avoid further chaotic demonstrations, the government felt the urgency to regulate such activities. To this end, the government passed a regulation known as Government Regulation in Lieu of Law or *Peraturan Pemerintah Pengganti Undang-undang* (hereinafter abbreviated as "Perpu") concerning the Freedom to Express Opinion before the Public.⁵ This measure was heavily criticized by human rights activists and Non Governmental Organizations (NGOs) on two accounts. *First*, the policy was seen as an attempt to restrict, not regulate, the freedom of speech. *Second*,

the government should not impose the Perpu since it should be issued only when the nation is in a state of emergency.⁶ It was questioned whether the time the Perpu was issued qualifies as state of emergency. To avoid further debate, effort was made to make the Perpu to become Law. For this purpose, the government was quick in obtaining endorsement from the parliament or *Dewan Perwakilan Rakyat* (hereinafter abbreviated as "DPR"). The DPR swiftly gave the endorsement required on the same year. The Perpu became Law with some changes (hereinafter referred to as "Freedom to Express Law").⁷

At the beginning, the police found it difficult to enforce the Freedom to Express Law.⁸ People refused their freedom to be restricted again; and to defend such freedom, they were willing to break the Law. In addition, police were reluctant to take harsh measures as they were outnumbered and afraid of being accused of violating human rights.⁹ As quoted by the *Jakarta Post*, the police admitted, saying "We don't want to be accused of human rights abuse."¹⁰ This was taken as the standard excuse for the police when standing by and witnessing a menacing armed crowd ransack someone's property or burn somebody alive. Furthermore, harsh measures were thought by the government as unpopular. A harsh measure had been conceived as undermining government effort to obtain public acceptance which

the government was in dire need. As a result, many demonstrations were staged ignoring the Law.

Habibie had placed human rights as top priority agenda for his administration in order to enable him to show the public that his administration is different from that of Soeharto. Politically this is necessary to gain public acceptance of his administration. It was public knowledge that Habibie was Soeharto's favorite to succeed him.¹¹ The public at that time did not welcome anyone or anything related to Soeharto. Therefore, Habibie tried very hard to independently make his own mark and in politics. By placing human rights as his top priority, Habibie was highly expected to be different from his predecessor, Soeharto.

The agenda was implemented by introducing human rights legislations and acceding to international instruments. In doing so the administration had meant to show the people that the administration was different from that of Soeharto.

One of the important achievements in this regard was the enactment of the Human Rights Law.¹² The Law has 106 articles containing the fundamentals of human rights. It sets in detail provisions concerning the right to live and the right not to be abducted and/or killed, the right to establish a family and bear children, the right to self-development, the right to justice,

the right to individual freedom, the right to security, the right to welfare, the right to participate in the government, women's right, children's right, and the right to religious freedom.

The Human Rights Law also strengthens the existence of Komnas HAM which was established by the Soeharto administration.¹³ Under the Law, the members of Komnas HAM are appointed by the Parliament and sanctioned by the President.¹⁴ Another achievement of this administration is the revocation of Anti Subversive Law of 1963.¹⁵ The Law had been considered as restricting and circumscribing the basic human rights, such as freedom of speech.¹⁶ Under the Soeharto administration the Anti Subversive Law had been employed extensively to silence government opposition.

A decision equally important made by the Habibie administration was the abolishment of a ministerial decree that provided power to the minister of information to ban media.¹⁷ This had been considered as an important step for wider freedom of the press.

In addition, the administration had issued a Presidential Decree outlining plan of actions to improve human rights practice.¹⁸ Apart from that, Habibie had released 200 political prisoners and rehabilitated those who were accused without trial of having involvement in communist coup in 1965.¹⁹ The Habibie administration

also made decisions unconceivable under Soeharto administration with respect to separatist movements. On August 1998 Habibie's Minister of Defence announced the termination of Aceh as an Area of Military Operation (*Daerah Operasi Militer*) status. Besides, in 1999 Habibie had endorsed to give East Timorese people the right of self determination dubbed as popular consultation. The self determination process, later on, resulted in East Timor independence in 2000.

The Habibie administration had also acceded and ratified a number of international treaties dealing with human rights.²⁰ The Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment was ratified in 1998.²¹ In the subsequent year, the Convention on the Elimination of All Forms of Racial Discrimination was also ratified.²² During the Habibie administration there were three International Labor Organizations conventions ratified. Those are the ILO Convention No. 105 concerning The Abolition of Forced Labor,²³ the ILO Convention No. 138 concerning Minimum Age for Admission to Employment,²⁴ and the ILO Convention No. 111 concerning Discrimination in Respect of Employment and Occupation.²⁵

All in all during a little over a year Habibie assumed his presidency, he had been successful in reforming the legal framework that deals with human rights. Unfortunately, such suc-

cess was not followed by significant improvement in human rights practice at the society level. Human rights violations still occurred. There were incidents of which students were shot dead when holding demonstrations known as the Semanggi tragedy.²⁶ The East Timor popular consultation turned into violence after the result was announced.

The positive measures taken by Habibie administration to promote and protect human rights unfortunately coincided with extreme euphoria and excitement in the once repressed society. The administration did not provide any proper policy and measures for anticipating these matters. For example, the government was unable to forecast the implication of the independence option for East Timor, particularly the eruption of violence. Another example is the unimaginable growth of mass media that was not followed by strict regulations on ethics and their enforcement. This has resulted in some form of excessive and uncontrollable practice of freedom of the press in which pornography and unfounded as well as inaccurate reports were pervasive.

The Wahid Administration

Under President Wahid, human rights were put on special agenda because of his personal belief that human rights should be respected. Such belief may be imbued by his experience of

being human rights activist before he came to power.²⁷ As a muslim who leads the biggest Islamic organization, *Nahdlatul Ulama* (NU), he had shown great tolerance with other religions. This background had great influence on Wahid when he assumed his presidency. Government's commitment dealing with human rights had its roots in Wahid's personal determination to uphold human rights.

Under Wahid administration, a first ever ministry that exclusively dealt with human rights issues was established. The ministry was referred to as the Ministry of Human Rights which had four responsibilities, namely, policy formulation, coordination, people's empowerment, and report as well as evaluation in the field of human rights.²⁸ However, due to the cabinet reshuffle taking place in August 2000, the ministry was merged to the Department of Justice.²⁹ The ministry differed from Komnas HAM as it was an executive branch and under the direction of the President. Although Komnas HAM is a government institution, it is not part of the executive branch, as it is independent from the government.

President Wahid promoted equal rights for the minority of Indonesian Chinese. He advocated that Indonesian Chinese should be allowed to keep their Chinese names. This is a significant improvement since during the Soeharto administration, the Indone-

sian Chinese were not allowed to use their Chinese names, Chinese script and to promote their culture. In addition, Wahid revoked a regulation that made Chinese Indonesian to obtain special permission from the government authorities when conducting religious, beliefs and customs activities.³⁰ He had even suggested that Confucianism should be recognized as one of the religions of the state.³¹ Furthermore, under Wahid administration Chinese Lunar New Year for the first time was declared as optional state-holiday.³²

In dealing with the Aceh issue Wahid had called for a peaceful solution through dialogues between the government and the group of separatist movement of Aceh Independent Movement (GAM/*Gerakan Aceh Merdeka*). He even proposed a referendum for Aceh.³³ Wahid had to face strong opposition to this idea from some members of his cabinet and the military. He also called for parliamentary investigation into human rights abuses in Aceh.³⁴

Under the Wahid administration a Law was passed to establish a Court to specifically examine gross violations of human rights. The Law is referred to as the Law on Human Rights Court (Human Rights Court Law) that consists of 51 articles.³⁵ There are two kinds of gross human rights violations defined under the Law, namely,

crime of genocide and crimes against humanity.³⁶ These two crimes are in fact internationally recognized under the Rome Statute of the International Criminal Court.³⁷ The Human Rights Court Law sets out the power of the Court, the law of procedure for arrest, detention, investigation and prosecution. It deals also with examination before the court, witness protection, and rehabilitation.

The Law has been a landmark for human rights protection, even for the abuses taking place in the past, as it can be applied retroactively.³⁸ Under the Law, the Court that examines past human rights violations is referred to as Ad Hoc Human Rights Court.³⁹ The Ad Hoc Human Rights Court will only be instituted if certain past human rights violation is recommended to be examined by the DPR to the President. The President will then issue a Presidential Decree to that effect.⁴⁰ To date, there are only two cases being processed, namely, those of the East Timor and the Tanjung Priok incidents.

In hindsight, the Human Rights Court Law was a kind of compromise between international pressures which demanded the establishment of an international tribunal and Indonesia which rejected the idea but was in favor of prosecuting the culprit. The government had been successful in convincing international community for the trial to take place in Indonesia.

The then foreign minister, Alwi Shihab, as quoted by the Jakarta Post said that, "It would be counterproductive (to have an international tribunal) because it would trigger a xenophobic response and allow violators to wrap themselves in the flag in an excessive spirit of nationalism."⁴¹ Wahid's determination to uphold human rights was shown when one of his ministers was investigated for human rights abuse.⁴² He suspended his Minister for Security and Political Affairs, General (ret.) Wiranto, to allow further investigation on his alleged role in the East Timor incident.

Another Wahid's achievement in the field of human rights during his term of office was that he had continued Habibie's policy of releasing political prisoners accused of subversion, defaming government and rebellion during the Soeharto administration.⁴³

At one point he suggested that the People's Consultative Assembly or the *Majelis Permusyawaratan Rakyat* (hereinafter abbreviated as "MPR") Decree banning communism and Marxism to be revoked.⁴⁴ However, such proposal failed as the majority of MPR members were against of such proposal.

Although Wahid had high commitment to human rights and many had expected that human rights practice would improve significantly under his leadership, however the bureaucracies

d top-level government officials were able or had been reluctant to implement what the President had in mind. Changing mindset at the bureaucratic level had been difficult. As a result, human rights practice had not significantly achieved any progress. Instead, human rights abuses have often taken a different kind of form, such as communal clashes. In Maluku and Poso, for instance, there have been interreligious violences.⁴⁵ In the island of Kalimantan, there had been ethnic conflict.⁴⁶

The Megawati Administration

Unlike her predecessors — Habibie and Wahid, Megawati does not place human rights agenda highly in running the government. Human rights have been treated equally as, and sometimes overshadowed by, other issues of national concerns. Under Megawati, the government has been preoccupied with separatist movement and war against terrorism.⁴⁷ The government had received criticisms for focusing more on territorial integrity and national security rather than on human rights.

Megawati was criticized for launching military operation and imposing martial law in Aceh province. The military operation was launched after the government's deadline to disarm and renounce demand for independence by GAM on 12 May 2002 had pas-

sed.⁴⁸ While the martial law in Aceh took effect on 19 May 2003.⁴⁹ The government previously had entered peace deal with GAM in the form of the Cessation of Hostilities Agreement (COHA) signed in 2002.⁵⁰ The deal broke off when further negotiation between the government and leaders of GAM in Tokyo had failed.⁵¹

The martial law had been imposed for a six months period. However, on 4 November 2003 the government decided to extend another six months.⁵² The extension had been criticized by many.⁵³ Journalists had criticized the imposition of martial law as it would provide them with limited access to cover events in the operation zone in Aceh.⁵⁴ The military has placed limit of what journalist can report.⁵⁵ Foreign journalists are prohibited from covering military campaign.⁵⁶

Megawati also received criticism⁵⁷ when the government passed two Government Regulations in Lieu of Law to combat terrorist act.⁵⁸ The Perpu was submitted to DPR for endorsement.⁵⁹ Subsequently the DPR had approved it and since then the Perpu became Law (hereinafter referred to as "Anti Terrorism Law").⁶⁰ However, the Law has been criticized for not giving due consideration to human rights issue. The Law is seen as the revival of the former Anti Subversive Law that has been revoked.⁶¹ Under this Law the police are given extensive power to ar-

rest and detain terrorist suspect. The Law has legalized preemptive actions of arrest based on intelligence information instead of legal evidences.⁶²

Many have criticized Megawati for lacking strong commitment on human rights. The criticisms have been voiced persistently since Megawati took office until the end of 2003.⁶³ Against these criticisms the government remains unheeded. The government has been able to neglect such criticisms due to public negative repercussions of human rights practice during the Habibie and Wahid administration. One example of negative repercussions is the freedom of speech. This freedom has shifted from purely voicing concern to be a business of its own right. There have been 'demonstration organizers' who can gather crowds and stage demonstration in return for money. As a consequence there was a feeling of disillusionment from the public bred out of years of human rights practice that did not deliver any practical benefit. People have become indifference toward government who has strong or weak commitment to the protection and promotion of human rights.

In the midst of negative public perception on human rights, the government has been challenged by some aspects of human rights considered to be practiced excessively. The police have been more assertive in clamping down demonstrations that did not

comply with the Freedom to Express Law. There have been cases in which individuals were arrested and charged with the holding of unlicensed demonstrations, disturbing public order, smearing or stamping on pictures of the President and Vice President to the substance of demonstrations that is against the law, such as insulting the head of state.⁶⁴ The government even warned the protesters not to dream of toppling the Megawati legitimate government as it would confront them.⁶⁵

The freedom of the press has also been challenged by the government. Recently editors of mass media have been brought to courts to face criminal charges, such as in *Rakyat Merdeka* case.⁶⁶ Human rights defenders and NGOs have criticized Megawati's administration of restoring law enforcement to suppress freedom of speech and freedom of the press.

Promotion of human rights has also been weakened lately due to disproportionate foreign government and NGOs involvement. Such involvement has been perceived by the public that human rights have become a tool for new colonialism.⁶⁷ In a similar vein, the Chief of Staff of the Indonesian Army said that human rights and democracy would constitute future threat for Indonesia as a state.⁶⁸ In this sense, the concept of human rights is considered as foreign ideological or political imposition.

Human Rights Legal Framework

There has been an argument that legal framework can be useful to change society. By introducing certain values to the legal framework this will result in some changes in society. Many have subscribed to this argument, including foreign governments and political leaders in Indonesia. To this end the government has been encouraged to introduce laws and ratify international instruments relating to human rights. The expectation is that human rights conditions in Indonesia will improve. Unfortunately, this has not been the case for Indonesia within the five years span.

To date, legal framework has served only as mere symbol of having laws and regulations but without any implementation. Indonesia's legal framework dealing with human rights post-Soeharto administration has improved significantly. There have been copious statutory enactment, government regulations and even ratification of international treaties.

The most monumental legal framework relating to human rights appeared in 2000 when the Constitution was amended for the second time.⁶⁹ The amendment has included important articles dealing with human rights.⁷⁰ The Constitution now contains a number of various articles dealing with human rights. Provisions that deal directly with human rights are placed

under Chapter X A. The chapter contains 9 paragraphs. The first-eight paragraphs, referred to as article 28 (a) to (i), contain the basic human rights, while the last paragraph contains a basic duty.

The basic human rights are the right to live,⁷¹ the right to establish a family and for a child to have the right to live, grow and develop,⁷² the right to prosper and improve,⁷³ the right to be recognized and protected before the law and the right to work, equal opportunities in government and right to citizenship status,⁷⁴ the right to choose religion and the right of association and expression,⁷⁵ the right to communicate and obtain information,⁷⁶ the right to protection and right to be free from inhuman treatment,⁷⁷ the right to live in physical and spiritual prosperity, the right to receive facilitation and the right to social security and the right to own personal property,⁷⁸ the right to life and right to be free from any discriminative treatment.⁷⁹

Article 28 also provides duties under Article 28 (j), namely the duty to respect human rights of others and the duty to accept restriction in exercising rights and freedoms.⁸⁰ There has also been MPR decree that requires all high level state institutions and the whole of government apparatus to respect, uphold and disseminate information concerning human rights to the general public. The decree also mentioned the government to immediately ratify

a number of United Nations' instruments, without any specific reference, concerning human rights without as long as it does not contradict with Pancasila, the state ideology, and the Constitution.⁸¹

At the statutory level, there have been new laws introduced and some laws repelled as has been discussed earlier. Apart from that, there are also some draft laws related to human rights currently being discussed. One which is considered to be important is the draft law of the Truth and Reconciliation Commission or *Komisi Kebenaran dan Rekonsiliasi* (herein-after referred to as "KKR"). The KKR is considered to be a way out for transitional justice for the past human rights abuse taking model from South Africa's experience. The draft law is intended to deal with past human rights abuses committed during both the Soekarno and Soeharto regimes, offering pardons to the suspects who are ready to be reconciled with their victims and pay them compensation.⁸² The draft law was initially prepared by the Institute for Policy Research and Advocacy or *Lembaga Studi dan Advokasi Masyarakat* better known as ELSAM, a human rights NGO.⁸³

Besides Laws that deal directly with human rights, there are Laws that indirectly have provisions to protect and improve human rights conditions in Indonesia. The Laws, among others, are the Labor Law,⁸⁴ the Press Law⁸⁵

and the Child Protection Law.⁸⁶ Furthermore, there are Laws that made reference to human rights such as the Advocate Law,⁸⁷ the National Education Law,⁸⁸ the Police Law,⁸⁹ and the Broadcasting Law.⁹⁰ To take one example, under the Police Law it is stated that the Police has to respect human rights,⁹¹ and the Advocate Law mentions that Advocate task, among others, is to uphold human rights.⁹²

In addition to domestic legislations, Indonesia has ratified various international legal instruments that deal with human rights as discussed earlier. With the numerous legislations that have been passed and international treaties ratified dealing directly and indirectly with human rights, the question is whether such effort has made significant improvement to human rights practice in Indonesia. Unfortunately, there continues to exist a wide gap between what is provided under the Law and the reality. There are six main reasons for the failure.

First, the legislations were passed with the intent of only satisfying international pressure, domestic NGOs pressure, even political elites who had interest of holding on to their power, rather than a genuine attempt to improving human rights condition. *Second*, such legislations overlooked the necessary supporting infrastructure for effective implementation. The legal apparatus, for example, have lack of

understanding on the concept of human rights. Many, for example, have confused the concept of command or superior responsibility as administrative responsibility. *Third*, the leniency extended by law enforcement agencies to human rights violators resulting in little incentive for compliance. In addition, some provisions in the legislations are difficult to enforce since they are the result of political compromise.

The *fourth* factor responsible for the failure is that it is difficult to enforce the new legislation, as it involves changes in the legal culture and mindset of the general public and the lack of publicity of such human rights legislations. Such changes are likely to take a long time to materialize. *Fifth*, the international instruments ratified by Indonesia have failed to be translated into national legislations. For instance, human rights that protect labors have remained unchanged at society's level even though a number of international treaties have been ratified to ensure labors are protected. Despite Indonesia has ratified ILO Convention No. 138, it has not yet succeeded in abolishing completely child workers. Furthermore, forced and bonded children continue to exist even though Indonesia had ratified ILO Convention No. 105 concerning the Abolition of Forced Labor.

Sixth, if provisions of international treaties are transformed to national legislations, problems arise at the imple-

mentation phase. Caning in open places has been introduced in Aceh province irrespective of the Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment which was ratified in 1998.⁹³ National legislations that discriminate Indonesian Chinese⁹⁴ still exist even though Convention on the Elimination of All Forms of Racial Discrimination has been ratified.⁹⁵

From the above Indonesia's experience it would be wrong for those who argue that improvement of human rights conditions could be pursued through international treaties. Neglect of the specific conditions of the contracting states manifests as incomplete implementation even after they are transformed into national legislations because of inadequate supporting legal infrastructure of the state concerned. The improvement of Indonesia's legal framework only serve as providing the ideal benchmark standards. The framework has not, however, been significantly reflected in the society.

Human Rights Institutions

One of important parts of human rights promotion and protection is the existence of institutions dealing with the issue. In the absence of such institutions, it would be difficult to ensure the implementation and improvement of human rights conditions. Institut-

ions dealing with human rights in Indonesia are categorized into government and private institutions.

During the Soeharto administration there was only one government institution that promotes and deals with human rights issue, namely, the *Komnas HAM*.⁹⁶ Komnas HAM became the focal point of government institution to deal with human rights promotion and protection. Komnas HAM under the Soeharto administration had been highly regarded. The administration had been consistent in following up the recommendations from Komnas HAM.

Surprisingly as the government become democratic, in the last two years, recommendations from Komnas HAM have not been followed up seriously by state institutions.⁹⁷ Komnas HAM has been complaining of this condition. For example, the Indonesian Military refused to answer the summons by Komnas HAM's Commission of Inquiry into Human Rights Violations during the down fall of Soeharto and the beginning of Habibie government known as the Trisakti, Semanggi I and Semanggi II incidents.⁹⁸ In addition, the Chairman of Komnas HAM, Abdul Hakim Garuda Nusantara, questioned government's and DPR's commitment to keep Komnas HAM in charge of human rights. According to him, since Komnas HAM will rely on the Attorney General Office for prosecution then it will be difficult to prosecute

those accused of abusing human rights if the Attorney General's office ignores Komnas HAM's recommendations.⁹⁹

Under the post-Soeharto administrations, there have been many government institutions dealing with human rights, which became a jargon not only for NGOs, but also for the government. To this end, within the government there are institutions, sections or desk which deals with human rights. The institutions include the defunct Ministry for Human Rights which was currently been restructured and placed as part of the Ministry of Justice. Currently within the Ministry of Justice there are two agencies dealing with human rights issues.¹⁰⁰ Apart from that, certain ministries have section that deals with human rights issue.

Under a much democratic government and having sound legal basis, the many government institutions dealing with human rights unfortunately have not been able to improve human rights practice in Indonesia. And this has been worsened by another problem, namely, the lack of coordination among those institutions. Each institution has been selfish and can hardly cooperate with each other in dealing with human rights issues.

As to private institutions during the Soeharto administration there were only a few. One of the leading human rights institutions was the Legal Aid Institute (LBH). Founded in 1970s, the

LBH has been very critical of abuses in human rights perpetrated by the government or the military.

Under the post-Soeharto administrations, there have been many private institutions working on human rights issues in the form of NGOs. Apart from the LBH, there are Commission for Disappearing/Lost Persons and Victims of Violence (Kontras),¹⁰¹ Imparsial,¹⁰² ELSAM,¹⁰³ PBHI,¹⁰⁴ there are also Centers for Human Rights attached to universities. There have been new generation of pro-democracy and human rights groups — such as INFIGHT (Indonesian Front for the Defense of Human Rights), GENI (a human rights group based in Salatiga, Central Java) PIPHAM (Center for Human Rights Information and Education).¹⁰⁵ With the increased number of the existing NGOs, LBH has been forced to renew its role in advocating and protecting human rights.¹⁰⁶

It is interesting to note that some of NGOs involved in human rights work have been established under the sponsorship of officials from the government. These officials had encouraged their acquaintance to establish NGOs in order to present opposing views of the already established NGOs who have been critical against the government. These kind of 'government' sponsored human rights NGOs were short-lived, usually lapsing into inactivity when the officials have left the office.

In addition, it cannot be denied that some of human rights NGOs have been established with the aim of commercial and other hidden agenda which are far from the purposes of upholding human rights.¹⁰⁷ There have been problems recently faced by private institutions. One of the fundamental problems is funding that has been substantially made by foreign donors. Once these donors pull out, the NGOs will slowly collapse. For example, LBH was reported to be in the brink of collapse due to financial difficulties as all of their international funding agencies had reportedly ceased their financial assistance.¹⁰⁸

Funding from foreign sponsors have been problematic. For the NGOs the incentives to promote human rights issue practically depend on the interest of their foreign sponsors.¹⁰⁹ The NGOs have been unable to act on the basis of the choice of its own members. The fact that NGOs have been struggling financially only attests to their dependency on foreign financial contributions, thus undermining their credibility. The NGO funding has also raised the question on foreign donor(s) commitment to the promotion of human rights in Indonesia.¹¹⁰ The question is whether the contribution was intended for a 'one-off' goal to bring down an authoritarian regime or a long-term objective of promoting human rights in Indonesia.

The second problem is the proliferation of NGOs have made overlapping efforts to improve human rights conditions. The public has been confused with the many agendas of human rights that the NGOs are advocating. The government has also been baffled with the many recommendations from the NGOs. However, the government has been taking advantage of the existence of many NGOs, in particular when certain policy is decided. The government will ask NGOs who support its policy to go against NGOs who are against the policy.

The third problem stems from the fact that human rights issues have been taken up more by government institutions and as a result NGOs no longer possess the charisma they used to have under the more oppressive Soeharto administration.

In sum, even though human rights institutions have grown in number, unfortunately this does not necessarily mean the improvement of human rights conditions. Hence, it would be wrong to conclude that with many NGOs existing, society's awareness on human rights will accordingly be strengthened.

Public's Perception on Human Rights

Public perception towards human rights is crucial as this will influence effectively their own commitment and the government's to uphold human rights. A positive public perception to-

ward human rights practice will promote rather than retard the progress on human rights. On the contrary, the public's negative perception on it will be counter productive towards human rights promotion itself.

After the fall of Soeharto, human rights were praised by the public. However, as they were practiced excessively, people began to show their discontent and resentment.¹¹¹ Having enjoyed political stability under Soeharto administration, the country has to face political instability and disorder. Many have considered excessive human rights practices to be responsible for that situation.

Excessive practice of human rights in recent times has been challenged by the public. Their dissatisfaction of human rights issues have been often directed towards human rights activists. There have been incidents where human rights activists and their offices were attacked by certain people and organizations.¹¹²

Another example, under the Habibie and Wahid administration, freedom of press was exercised as if there were no boundaries and laws. This freedom has been demonstrated by the birth of new newspapers, magazines, radios and televisions.¹¹³ The mass media can report almost anything without any government censorship as happened during the Soeharto administration. However, recently there have

been lawsuits coming from the public challenging the freedom of the press.¹¹⁴ Of course, from the perspective of human rights activists and journalists the many cases against the press have been seen as threat to freedom of the press.¹¹⁵

The same applies to the freedom of speech. Demonstrations held in the business district areas in big cities have been complained by the public due to the inconveniences they have caused. Long traffic jam, road closed and public transportation not operating are instances of the inconveniences. The negative public perception has undoubtedly implicated on the promotion and protection of human rights in Indonesia.

ASSESSMENT ON SELECTED ISSUES

Domestic Trials for Gross Violations of Human Rights

As stated earlier, there were two incidents of the past human rights violations brought to trial. First is the East Timor incident and the second is the Tanjung Priok incident. The trials were mainly instituted to face international demand, such as the UN Security Council, who urged Indonesia to bring to justice those responsible for atrocities in East Timor.¹¹⁶ While the Tanjung Priok trials were intended to counter the impression that the establishment of Ad Hoc Human Rights Court was purely the result of Indone-

sia's surrendering to international demand, apart from responding to domestic pressure.

Technically, the establishment of the Ad Hoc Human Rights Court begun with report of gross violations of human rights by Komnas HAM. There were two reports of Komnas HAM which led to East Timor and Tanjung Priok trials. On 22 September 1999 Komnas HAM created a Commission for Human Rights Violations in East Timor or *Komisi Penyelidik Pelanggaran HAM di Timor Timur* (abbreviated as 'KPP HAM'). KPP HAM is composed of government officials and human rights activists. On 31 January 2000, it produced a comprehensive report naming Indonesian and East Timorese officials and military leaders responsible for flagrant violations of human rights.¹¹⁷

Amongst those prosecuted include the Chief of Military Command overseeing East Timor, the Chief of East Timor Police, the Governor and other high-ranking officials in the military, police and civil service. However, the report excluded the Commander in Chief of the Armed Forces. The exclusion of such officials was criticized by both the international community and domestic human rights watchdogs.¹¹⁸

The report was submitted to DPR and subsequently the DPR had recommended to the President for the incident to be examined before the Ad

Hoc Human Rights Court. President Wahid at the time issued Presidential Decree 53 of 2001 for the establishment of Ad Hoc Human Rights Court.¹¹⁹ It should be noted that the East Timor incident referred to in Decree 53 was not all incidents occurred in East Timor since 1976. The incident was limited to incident that occurred in East Timor between the month of April 1999 to September 1999.¹²⁰ The Presidential Decree was amended by Presidential Decree 96 of 2001 when Wahid was replaced by Megawati as President. The amendment had narrowed down the jurisdiction not covering all areas of the former province of East Timor, but limited to Liquica, Dilli, dan Suai.

The Attorney General's Office had followed up the report by Komnas HAM but not prosecuting all those named by KPP HAM. Only 18 defendants were prosecuted which were divided into 12 cases.¹²¹ The defendants from the military and police were charged in a single case, in particular those who have rank Lieutenant Colonel above. The two civilians had also been charged in a single case.

When naming those who were prosecuted, the Attorney General Office was criticized for not prosecuting the many high ranking military and civilian officials who were in the central government. The Attorney General Office had defended by stating that the exclusion is due to the limited

jurisdiction under Presidential Decree 96 of 2001.

In most of the cases, the defendants were all charged by the prosecutors with crimes against humanity under Article 7 (b) and Article 9 of the Human Rights Court Law.¹²² This is based on the fact that the defendant assumed their capacity as superiors having responsibility under Article 42 of the Human Rights Court Law.¹²³

The Ad Hoc Human Rights Court found six guilty while acquitting the other 12. The six, among others, are the former Dili military commander who was sentenced to five years in jail and the former Chief of Military Command overseeing East Timor province who was sentenced for 3 years. The latter was found guilty by the Court irrespective of the prosecutor seeking for an acquittal.¹²⁴ Two East Timorese origins have also been found guilty. The former Governor was sentenced to 3 years,¹²⁵ and the former leader of Red and White militia was sentenced to 10 years and 6 months. All six appealed their conviction and have not served jail sentences pending their appeal. When this article is written there has yet been any decision from the appeal.

For human rights activists the prosecution and decision of the court have been referred to as a sham.¹²⁶ The local human rights watchdogs, such as PBHI and ELSAM, said that the trials

were a complete failure because it was defective from the outset and intended only to save faces of the trials.¹²⁷ The trial had not brought those who were accused as the main perpetrators, such as the Chief of the Armed Forces.¹²⁸ Foreign analysts and NGOs have voiced in similar vein.¹²⁹ Also countries like the US had expressed its disappointment.¹³⁰

The Tanjung Priok incident took place on 12 September 1984, when soldiers opened fire on antigovernment protesters outside the Tanjung Priok Mosque. According to the relatives of the Tanjung Priok victims, the incident claimed over 400 lives, while the military said only 18 people were killed in the bloodshed.¹³¹ An investigation by Komnas HAM, however, found there were 24 killed and 55 injured.¹³² The trials of Tanjung Priok was proceeded with a report from Komnas HAM issued on 11 October 2000.¹³³ Based on the report, there were 23 individuals named occupying various military positions as being responsible in the incident, including the Chief of the Armed Forces and Jakarta Military Commander. However, the two were not named when the Attorney General Office file for prosecution as follow up on Komnas HAM report.¹³⁴

At the time this article is written the trials are still on going and verdicts are expected to be delivered in around February or March of 2004. There are four trials involving a total of 17 de-

fendants.¹³⁵ Fourteen defendants were tried on a single case. The other three cases prosecuted single defendant respectively with a rank of major general, one still active and the other two have retired. However, it should be noted that these three at the time of the incident still a middle ranking military officials.

Although verdicts have yet been issued, however, NGOs have been skeptical of the results. It should be noted that the trials did not attract foreign attention, neither government nor NGOs. Regarding the trials of East Timor and Tanjung Priok incidents, many have been dissatisfied with the result. There are several causes for the unsatisfactory result.

To begin with, those who are the main perpetrators and highly demanded to stand trial have not been prosecuted by the Attorney General Office. The most culpable among those named by the Komnas HAM reports, NGOs and even international community had in mind were spared. This mainly due to Indonesia's cultural norms that protect social elites from prosecution.

In addition, the culpability of the defendants sometimes hinges on unforeseeable political outcomes. In the East Timor trials, if East Timor were still part of Indonesia, those prosecuted will be considered national heroes rather than criminals. The same applies to the Tanjung Priok trials, the in-

dividuals have to stand trials for something which were considered wrong today, but not at the time when the incident occurred. The trials seem to be carried out to appease international and domestic pressures rather than to uphold human rights standards and restore justice.¹³⁶

Although prosecutors and judges involved in the East Timor and Tanjung Priok trials had undergone special human rights course,¹³⁷ however it is doubtful whether the short duration of the course would give them a comprehensive understanding of international criminal law. The unfamiliarity and inexperience of the prosecutors and judges raised doubts as to the professionalism and fairness of the trial as justice can be denied because of lack of understanding when examining a case that requires particular expertise.

The lack of resources for legal research coupled with the time constraints on the judges to render decisions on time further undermines the authoritativeness of the judgments¹³⁸. If the judges were previously afraid of the powerful elite, they now tend to bow to public outcry for revenge and international pressure to find the defendant guilty. This finds expression in two forms: conviction even when there is insufficient evidence,¹³⁹ and sentencing in contravention of legislative minimum.¹⁴⁰ The other reason for failure is the poor legal system, which

is not strong enough to protect witnesses, thus making him/her reluctant to testify. Due to such deficiency, the prosecutors and judges took the minimum route in examining the root of the case.

To conclude, it is fair to say that it is not an easy task to do justice of past human rights abuses. Bringing those responsible in the East Timor and Tanjung Priok incidents are different from bringing those responsible in the Second World War aftermath or atrocities in former Yugoslavia and Rwanda. Japanese and German's policy makers and soldiers had to stand trials because they lost the war. Leaders from former Yugoslavia and Rwanda had to stand trials because there were drastic change in the government. As for Indonesia, it had not lost the war in East Timor nor the government has been changed drastically.

Political considerations have been the dominant factor for a successful prosecution of those responsible in gross human rights violations. The culprit of the Second World War would have not stood trials if they had won the war. American policy makers and soldiers were able to get away from interantional crimes prosecution during the Vietnam war.¹⁴¹ This mainly because the US government felt that it was not international crimes warrant for prosecution. If there were international and domestic pressures, such pressures can easily be disregarded. This applies also to US attack on Iraq

in 1991,¹⁴² and another attack in March 2003.¹⁴³ The two Presidents would never stand trial for their decision.

Promotion of Human Rights in the Midst of War against Terror

The promotion and protection of human rights in Indonesia, recently have been deteriorated due to war against terror. The US and Australia have lost their persuasiveness and moral authority because their own anti-terror efforts were perceived to be inconsistent with their prior human rights sermons to Indonesia. This has become a convenient means for Indonesian public to attack on the US and Australia who in the past had been perceived to constantly bullied Indonesia to respect human rights.

In addition, the Indonesian public believes that war against terror should not be fought at the expense of human rights. To take an example, the Chairman of Indonesia's second largest Muslim organization, Muhammadiyah, had expressed that the war against terror has confused the government, but it should not ignore human rights.¹⁴⁴

The Megawati government has been criticized for having bowed erroneously to the US and its allies in the fight against terrorism,¹⁴⁵ despite the fact that Indonesia fell victim to terrorism itself.¹⁴⁶ Since the launch of the war against terror, Indonesia's human

rights cause has become one of its casualties through the revival of legislation legitimizing human rights abuses from what was thought to be a bygone era. Another source of debate was the fact that the war against terror have been seen as discrediting Islam. This has offended the public since Indonesia's population are muslim majority. Furthermore, it has tarnished the image of many Islamic boarding school known as *pesantren*.¹⁴⁷ *Pesantren* has been suspected by the US government as a place to train Islamic militant who support terrorism.¹⁴⁸

From the public perception, the war against terror has negative impact on the promotion and protection of human rights in Indonesia. This is because of the following reasons. *First*, the Indonesian government has been criticized for not protecting its nationals abroad where they may have suffered human rights violations in terrorism-related situations. For instance, Australian authorities went to the house of Indonesian Muslims residing in Australia with guns drawn and sledgehammers to break down doors.¹⁴⁹ They were suspected of having connections with Abu Bakar Ba'asyir. This was considered by public in Indonesia to be not in accordance with human rights. The DPR, for example, urged the government to lodge a protest against what they call human rights violations.¹⁵⁰ To appease the public, the Ministry of Foreign Affairs

lodged a protest to the Australian government through its Embassy in Jakarta,¹⁵¹ but shunned away from DPR's demand to establish investigation team to look into the matter in Australia.¹⁵²

The public had also demanded the government to inquire the Philippines government as to the unnatural death of terrorist suspect Al-Ghozi, who was believed to have executed extra-judicially by the Philippines military on the eve of US President Bush's visit to the country.¹⁵³ As for Al-Faruq and Hambali who are currently in US custody, there is concern as to their exact whereabouts, their having access to legal advice during interrogations, as well as calls for their extradition back to Indonesia for trial.¹⁵⁴ The Minister of Foreign Affairs defended government inaction on the grounds of terrorism being 'non-traditional criminal acts' that does not warrant protection.¹⁵⁵ Moreover, there are doubts as to the nationality of some of these suspects that may render protection inappropriate.¹⁵⁶

Second, international pressure is mounting toward government to arrest several Muslim leaders, such as Abu Bakar Ba'asyir who is considered by US and Australia as the leader of Jemaah Islamiyah. The police and prosecutors did so even they have no solid ground for prosecution. The lower Court found Abu Bakar Ba'asyir guilty of treason in a plot to overthrow Indonesia's secular government but cleared

of charges of being the leader of the Jemaah Islamiyah.¹⁵⁷ Later on, the appeal Court had reduced his sentence from four to three years and found guilty of forging identity documents.

Third, a number of persons have reportedly disappeared or have been forcibly taken into custody by the police due to their alleged terrorist links.¹⁵⁸ The police has apprehended without due process of law persons considered as alumni from training in Afghanistan during the Afghan war. Human rights watchdogs and muslim community have criticized the police moves as violations of basic human rights.¹⁵⁹ The police denied accusations that they had kidnapped Muslim activists by using the Anti Terrorism Law.¹⁶⁰

The war on terrorism has relieved external pressure on Indonesian government to respect human rights. Foreign countries were ready to overlook Indonesian's human rights abuses so long the government is cooperative in the war against terror. US, who had been in the past concerned with of human rights condition in Indonesia, has not been putting much pressure as the US needs Indonesia support its war on terror.

The public in Indonesia have resented international NGOs silence when it comes to human rights abuses of Indonesian national abroad suspected of terrorist act. In this sense, public in Indonesia felt those international

NGOs have been unfairly in bringing human rights issue. They only criticize fiercely the government over Indonesia's human rights condition but silent when it comes to Indonesians abroad who are abused of their human rights.

The negative impact of war against terror towards human rights has caused public in Indonesia to question whether human rights are only an instrument to weaken Indonesia as a country, including its government and military. The war on terror has encouraged abuses of human rights to recur, this time with the blessing of countries who have traditionally been referred to as the 'defender of human rights.' In fact, the international community expects Indonesia to disregard human rights consideration. For instance, Australia announced in August a plan to resume ties with the Indonesian special force, Kopassus, which were broken off in 1999 when the latter was accused of orchestrating mass violence in East Timor.¹⁶¹ Cooperation with Kopassus had been seen as necessary since Kopassus provides Indonesia's main counter-terrorism capability. The steps had received criticism from within Australia.¹⁶² To this end, the Australian Foreign Minister argued that the ties will be qualified and limited.¹⁶³ However, the cooperation was put on hold as Kopassus were reluctant to do the joint exercise as a result of its Chief was refused to enter Australia.¹⁶⁴

The above assessment will lead to a conclusion that human rights protection and promotion in Indonesia can be undermined if powerful states were willing to do so. Hence, foreign governments do not have sincere intention of upholding human rights in Indonesia. They rather have used human rights issues as political instrument against Indonesia.

CONCLUSION

During the period of 1998 to 2003, the protection and promotion of human rights in Indonesia remain far from being as expected. The downfall of Soeharto does not free Indonesia from human rights abuses. Government's commitment, improvement in legal framework and the growing number of institutions have been minimal in contributing to the protection and promotion of human rights. In addition, recent negative public perception on excessive practice of human rights have deteriorated further this cause.

The main cause of this failure is the fact that many are unaware of the fact that Indonesia is undergoing a transitional period. In this kind of period a bottom-up approach is absolutely needed. The conventional top-down approach of influencing the government, improving the legal infrastructure, even establishing new institutions would not be a panacea to protect and promote human rights.

ENDNOTES

- 1 "Student Actions Demand Soeharto Trial, Clash Near Parliament," *Kompas Online*, 22 May 1999, available at <http://www.kompas.com/kompas%2Dcetak/9905/22/english/stud.htm> (last visited 14 September 2003).
- 2 "Students Commemorate Parliament Occupation, Call for Dissolution of Golkar," *Kompas Online*, 19 May 1999, available at <http://www.kompas.com/kompas%2Dcetak/9905/19/english/stud.htm> (last visited 14 September 2003).
- 3 One demonstration, for example, had blocked the toll road, see: "Workers stage protest on toll road," *The Jakarta Post*, 26 May 1999, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=19990526.L09> (last visited 23 October 2003).
- 4 These usually involved demonstration held by students who demanded former President Soeharto to face trial or demand that Megawati resigned as President. Casualties cannot be avoided.
- 5 Government Regulation in Lieu of Law of the Republic of Indonesia, No. 2 of 1998, Government Regulation in Lieu of Law Concerning the Freedom to Express Opinion before the Public (*Kennerdekaan Menyampaikan Pendapat di Muka Umum*).
- 6 The Government Regulation in Lieu of Law as a form of legislation is enacted by the President under emergency circumstances only. Under Indonesia's legislation hierarchy, this kind of Government Regulation is one rank below of a Law or Act (*Undang-undang*). Under the Constitution it is required for the Perpu to be brought to the parliament within one year after its promulgation to be confirmed or rejected as Law.
- 7 Law of the Republic of Indonesia, No. 9 of 1998, Law Concerning Freedom to Express Opinion before the Public, is available at http://www.dephan.go.id/hukum/keptni2/uu_9_99.htm (last visited 23 October 2003). The sharp difference that can be seen is under the Perpu there are 17 articles, whilst under the Law there are 20 articles.
- 8 This was irrespective of Police warning to shoot demonstrators who perform anarchy. See: "Anarchistic demonstrators can be shot," *Kompas Online*, 18 February 1999, available at <http://www.kompas.com/kompas%2Dcetak/9902/18/english/anar.htm> (last visited September 14, 2003).
- 9 The non-assertive actions by the police is sometimes questioned whether they are really afraid of taking actions due to accusation of human rights violations or they intentionally do not take any action with the hope that people will see their important role in managing the holding of orderly demonstrations.
- 10 Carl Chairul, "Enough of democracy and human rights!," *The Jakarta Post*, 8 April 2001, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20010408.@05> (last visited 14 September 2003).
- 11 As a reflection of how public perceived of Habibie-Soeharto relationship, the Jakarta Post referred Habibie as the 'pet' cabinet of Soeharto. In the article, it was stated, "At times, he (Habibie) was seen as Soeharto's pet in the cabinet, getting virtually any funding he sought for his many costly projects, including IPTN's ambitious plan to produce Indonesia's first jet." See: "Fickle fortunes of B.J. Habibie's rise and fall," *The Jakarta Post*, 21 October 1999, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=19991021.B02> (last visited 23 October 2003).
- 12 Law of the Republic of Indonesia, No. 39 of 1999, Law Concerning Human Rights Court, available at <http://www.>

- asiamaya.com/undang-undang/uu_pengadilan_ham/uu_pengadilan_ham_index.htm. (last visited 23 October 2003).
- 13 Soeharto established Komnas HAM under Presidential Decree 50 of 1993. The establishment was not the result of the administration come to term with human rights protection and promotion. It was more for the purpose of appeasing international pressure who demanded improvement in Indonesia's human rights practice, in particular human rights abuses by the military.
 - 14 Previous Komnas HAM members were appointed by the President.
 - 15 Law of the Republic of Indonesia, No. 26 of 1999, Concerning Revocation of Law 11 of 1963, available at http://www.ri.go.id/produk_uu/isi/produk_99/uu1999/uu-26-99.htm. (last visited 23 October 2003).
 - 16 Under Article 1 par (1) of the Anti Subversive Law an act of subversion includes: 1. Anyone who has engaged in an action with the purpose of or clearly with the purpose which is known to him or can be expected to be known to him can: (a) distort, undermine or deviate from the ideology of the Pancasila state or the broad policy lines of the State; or (b) overthrow, destroy or undermine the power of the State or the authority of the lawful government or the machinery of the State; or (c) disseminate feelings of hostility or arouse hostility, cause splits, conflicts, chaos, disturbances or anxiety among the population or broad sections of society or between the State of the Republic of Indonesia and a friendly State; or (d) disturb, retard or disrupt industry, production, distribution, commerce, co-operatives or transported conducted by the Government or based upon a decision of the Government or which exerts widespread influence on the livelihood of the people; 2. Anyone who carries out a deed or activity which demonstrates sympathy with an enemy of the Republic of Indonesia or with a State that is unfriendly towards the Republic of Indonesia; 3. Anyone who damages or destroys installations which serve the public interest or large scale destruction of possessions, the property of individuals or organizations; 4. Anyone who engages in espionage; 5. Anyone who engages in sabotage. In addition under article 1 par (2) anyone who encourages the subversion activities shall also be convicted of engaging in subversive activities. Law of the Republic of Indonesia, No. 11 of 1963, Concerning Eradication of Subversive Acts, available at <http://www.law.qub.ac.uk/humanrts/emergency/timor/ti4.htm> (last visited 24 October 2003)
 - 17 Under the Soeharto administration there had been a number of newspapers and weekly magazines banned due to censorship policy conducted by the government.
 - 18 Presidential Decree of the Republic of Indonesia, No. 129 of 1998, Presidential Decree Concerning National Plan of Actions of Human Rights. The plan of actions has four main pillars: (i) preparation for ratification of international human rights instruments; (ii) dissemination of information and education of human rights; (iii) implementation of priority issues on human rights; and (iv) implementation of the international human rights instruments that have been ratified by Indonesia. The plan of actions run until 2003, but it has not been followed by Wahid and Megawati administration.
 - 19 "Sebanyak 10 NAPOL PKI Dibebaskan", *Kompas Daily*, Saturday Edition, March 6, 1999, <http://www.kompas.com/kompas%2Dcetak/9903/06/nasional/seba190.htm> (last visited 22 December 2003).

- 20 This will be discussed extensively later.
- 21 Law of the Republic of Indonesia, No. 5 of 1998, *available at* http://www.ham.go.id/pdf/uu_no5_th1998.pdf (last visited 23 October 2003).
- 22 Law of the Republic of Indonesia, No. 29 of 1999, *available at* http://www.ri.go.id/produk_uu/isi/produk_99/uu1999/uu-29-99.html (last visited 23 October 2003).
- 23 Law of the Republic of Indonesia, No. 19 of 1999, *available at* http://www.ri.go.id/produk_uu/isi/produk_99/uu1999/uu-19-99.html (last visited 23 October 2003).
- 24 Law of the Republic of Indonesia, No. 20 of 1999, *available at* http://www.ri.go.id/produk_uu/isi/produk_99/uu1999/uu-20-99.html (last visited 23 October 2003).
- 25 Law of the Republic of Indonesia, No. 21 of 1999, *available at* http://www.ri.go.id/produk_uu/isi/produk_99/uu1999/uu-21-99.html (last visited 23 October 2003).
- 26 There were two Semanggi tragedies. The first occurred on November 1998 and the second occurred on September 1999. The two tragedies were the results of student demonstration around Atmajaya University which is near to the Semanggi flyover. These demonstrations turned into violence when the authorities fired arms.
- 27 Under Soeharto administration, Wahid and his friends established a forum dubbed as ProDem or Pro Democracy.
- 28 Presidential Decree of the Republic of Indonesia, No. 134 of 1999.
- 29 Presidential Decree of the Republic of Indonesia, No. 234/M of 2000.
- 30 Presidential Decree of the Republic of Indonesia, No. 6 of 2000 Concerning the Annulment of Presidential Instruction No. 14 Year 1967 concerning Chinese Religion, Belief, and Customs, is *available at* http://www.ri.go.id/produk_uu/isi/keppres2000/no.1sd10-2000/no6-2000.htm (last visited October 24, 2003).
- 31 "Confucianism in favor with tolerant Wahid," *South China Morning Post.com*, 30 January 2001, *available at* <http://special.scmp.com/wchal/news/ZZZ1GV7SNJC.html> (last visited 23 October 2003).
- 32 "Chinese New Year Becomes Holiday for Ethnic Chinese in Indonesia," *People's Daily.com*, 19 January 2001, *available at* http://fpeng.peopledaily.com.cn/200101/19/eng20010119_60895.html (last visited 23 October 2003). The Megawati government decided to turn the optional holiday into national holiday.
- 33 "Wahid Backs Aceh Ballot", <http://news.bbc.co.uk/1/hi/world/asia-pacific/504973.stm>, last visited 23 December 2003).
- 34 "Renewed Independence After Soeharto's Resignation (1998-1999)", *available at* <http://www.db.idpproject.org/Sites/idpSurvey.nsf/wViewCountries/7902CA26F75C7D4AC12569670046313C>, last visited Dec. 23, 2003.
- 35 Law of the Republic of Indonesia, No. 26 of 2000, Law Concerning Human Rights Court Law is *available at* http://www.ri.go.id/produk_uu/isi/uu2000/uu-26-00.html (last visited 24 October 2003).
- 36 Article 7 (a) and (b) of the Human Rights Court Law.
- 37 Article 5 (a) and (b) of the Rome Statute of International Criminal Court, for a full text see: <http://www.un.org/law/icc/statute/romefra.htm> (last visited 23 October 2003).
- 38 Art 43 of the Human Rights Court Law.
- 39 *Id.*, art. 43 (1).
- 40 *Id.*, art. 43 (2).
- 41 "U.S. gives Indonesia more aid, time on human rights", *The Jakarta Post*, 22 January 2000, *available at* http://www.ri.go.id/produk_uu/isi/keppres2000/no.1sd10-2000/no6-2000.htm (last visited October 24, 2003).

- thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20000122.A10 (last visited 22 December 2003).
- 2 "Wiranto faces sack over Timor," *BBC News*, 31 January 2003, available at <http://news.bbc.co.uk/1/hi/world/asia-pacific/625644.stm> (last visited 13 September 2003).
 - 3 "Govt to free 80 political prisoners," *The Jakarta Post*, 26 October 1999, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=19991026.A05> (last visited 23 October 2003); "Government frees 91 political prisoners," *The Jakarta Post*, 11 December 1999, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=19991211.@02> (last visited 23 October 2003); "More political prisoners to be freed," *The Jakarta Post*, 15 December 1999, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=19991215.A06> (last visited 23 October 2003).
 - 4 "Gus Dur: TAP MPRS XXV/1966 Di-buat Karena Hawa Nafsu (Gus Dur: TAP MPRS XXV/1966 was made due to Temptation)," *Kompas*, 1 April 2000, available at <http://www.kompas.com/kompas%2Dcetak/0004/01/nasional/gusd06.htm>, last visited 22 December 2003.
 - 5 In Maluku Christians and Muslims engaged in mutually destructive violence which resulted in houses of worship were damaged or destroyed and people were killed. In Poso, Central Sulawesi, there have been religious riots and violence between Muslims and Christians which resulted in numerous deaths and widespread destruction.
 - 6 In Kalimantan interethnic clashes resulted in killings. The ethnic involved in the clashes are the indigenous Dayaks and Madurese migrants (originally from the island of Madura near Java). There have also been clashes between ethnic Malay and Madurese.
 - 47 The noted separatist movements are the Aceh Independent Movement or *Gerakan Aceh Merdeka* (GAM), the separatist movement in Papua and the separatist movement in Maluku. As for the war against terror, the government had taken serious effort after the Bali bombing occurred.
 - 48 "War looms large in Aceh," *The Jakarta Post*, 13 May 2003, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20030513.@01> (last visited 23 December 2003).
 - 49 Presidential Decree of the Republic of Indonesia, No. 28 of 2003.
 - 50 Cessation of Hostilities Framework Agreement between Government of the Republic of Indonesia and the Free Aceh Movement signed on December 9, 2002. Document is available at <http://www.hdcentre.org/Programmes/aceh/aceh%20COH.htm> (last visited 23 December 2003). The agreement contains 9 articles. Under article 1 of the agreement states that both sides will work towards the next phase of the pace process which is building further confidence and demonstrating a commitment to peace and eliminating suspicion, and clearing the way for humanitarian assistance. Article 2 calls for both sides to express commitment to the process and to call on all their forces to immediately cease all hostilities.
 - 51 "Peace in doubt after Aceh talks canceled," *The Jakarta Post*, 25 April 2003, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20030425.@01> (last visited 23 December 2003).
 - 52 "Government extends martial law in Aceh," *The Jakarta Post*, 4 November 2003, available at <http://www.thejakartapost.com/Archives/Archives>

- Det2.asp?FileID=20031104.@02 (last visited 23 December 2003).
- 53 "Govt criticized over martial law in Aceh," *The Jakarta Post*, 5 November 2003, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20031105.@05> (last visited 23 December 23, 2003).
- 54 There had been incident to which a journalist was dismissed by his TV station due to to an interview he did with a victim of a past military operation in Aceh, see: "Journalist dismissed after Aceh interview," *The Jakarta Post*, 16 June 2003, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20030616.B04> (last visited 23 December 2003); There was also incident which journalist was assaulted by military personnel, see: "Military troops' brutal assault on journalist in Aceh revealed," *The Jakarta Post*, 5 July 2003, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20030705.B01> (last visited 23 December 2003).
- 55 "Military limits media coverage in Aceh," *The Jakarta Post*, 21 June 2003, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20030621.@02> (last visited 23 December 2003).
- 56 "Aceh military tells foreign journalists to leave the province," *The Jakarta Post*, June 24, 2003 is available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20030624.B01> (last visited December 23, 2003).
- 57 "NGOs against anti-terrorism bill," *The Jakarta Post*, 19 January 2002, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20020119.G07> (last visited 24 October 2003).
- 58 The two Perpus are the Perpu on the Eradication of Terrorism Acts (*Pemberantasan Tindak Pidana Terorisme*) and the Perpu on the Eradication of Terrorism Acts for the Bali Bombing (*Pemberantasan Tindak Pidana Terorisme pada Peristiwa Peledakan Bom di Bali pada tanggal 12 Oktober 2002*). The Perpus are available, respectively, at http://www.ri.go.id/produk_uu/isi/perpu2002/perpu1'02.htm and http://www.ri.go.id/produk_uu/isi/perpu2002/perpu2'02.htm (last visited 24 October 2003).
- 59 "House vows to finalize terror law this month," *The Jakarta Post*, 13 November 2002, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20021113.A04> (last visited 23 December 2003).
- 60 Law of the Republic of Indonesia, No. 16 of 2003, Law Concerning the Endorsement of Perpu No. 1 and 2, is available at http://www.ri.go.id/produk_uu/produk2003/uu2003/uu16'03.htm (last visited 23 October 2003).
- 61 "Human rights and terrorism," *The Jakarta Post*, 21 December 2001, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20011221.C01> (last visited 23 October 2003).
- 62 Article 26 (1) of the Anti Terrorism Law.
- 63 Various NGOs have produced a general statement for the evaluation of Megawati's government in 2001. The report stated that progress had been insignificant in the field of human rights, see: *Catatan Akhir Tahun Bersama* (General Note at the End of the Year) is available at <http://www.infid.be/catatanakhirtahunbersama121.html> (last visited 24 October 2003); In the year of 2002 the same disappointment was voiced, see: "Komitmen HAM Rezim Mega Mengecewakan (Mega's Human Rights Commitment Disappointing)," *Asasi Newsletter*, May-June 2002, available at http://www.elsam.or.id/txt/asasi/2002_0506/01.html (last

- visited 24 October 2003); At the end of 2002 various newspaper had interviewed various people on Megawati's commitment on human rights. One of those is what was reported by *Suara Merdeka* that Megawati had disappointed the victim families of people grossly abused their human rights, see: "Rapor Pemerintahan Mega Merah (Mega's Government Report is Red)," *Suara Merdeka*, 29 December 2002, available at <http://www.suaramerdeka.com/harian/0212/29/nas1.htm> (last visited 24 October 2003); Also Komnas HAM and PBHI in its 2003 evaluation stated that the Government has failed in human rights protection and promotion. See: "Rezim Mega Belum Miliki Komitmen Tegakkan HAM (Mega Regime has yet have Commitment to Uphold Human Rights)," *Kompas*, 31 December 2003, available at <http://www.kompas.co.id/kompas-cetak/0312/31/nasional/776114.htm> (last visited 31 December 2003); also "Catatan Akhir Tahun PBHI: Pemerintah Gagal di Bidang HAM (A year end note of PBHI: The Government fail in the human rights field)" *Hukumonline*, 23 December 2003, available at <http://www.hukumonline.com/detail.asp?id=9377&cl=Berita> (last visited 31 December 2003).
- 64 "Two protesters jailed for insulting state leaders," *The Jakarta Post*, 25 October 2002, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20021025.A08> (last visited 23 October 2003); "Police fire warning shots, beat anti-CGI protesters," *The Jakarta Post*, 20 January 2003 is available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20030120.@01> (last visited 23 October 2003); "Mega reacts emotionally to stomping protesters," *The Jakarta Post*, 29 January 2003, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20030129.A04> (last visited 23 October 2003);
- 65 "Protesters told not to think of toppling govt," *The Jakarta Post*, 7 January 2003, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20030107.@02> (last visited 23 October 2003).
- 66 *Rakyat Merdeka* is a daily newspaper. In one case one former editor of the newspaper is found guilty for insulting the chairman of Golkar political party who is currently serving as speaker of DPR, Akbar Tanjung. The case was brought after the paper published a caricature depicting Akbar Tanjung shirtless and dripping with sweat trying to appeal his corruption conviction. In another case, one editor is prosecuted for insulting Megawati as Indonesia's President. This is after the newspaper presented a series of headlines concerning controversial government policies related to fuel and basic commodity price increase. One headline said the President's mouth smells like diesel.
- 67 Former Chairman of Golkar Party, Pinantun Hutasoit, said that the human rights promotion has become an instrument for new colonialism. See "Pinantun: HAM Dijadikan Alat Neo Kolonialis," *Republika Online*, 13 October 2003, available at <http://www.republika.co.id/berita/online/2003/10/13/142911.shtm> (last visited 14 October 2003).
- 68 "Ada Upaya Gagal Pemilu (Suspected Efforts to Make General Election Fail)," *Kompas*, 12 November 2003, available at <http://www.kompas.com/kompas-cetak/0311/12/utama/684560.htm> (last visited 23 December 2003).
- 69 To date the Constitution has been amended for four times. The second amendment took place on 18 August 2000.
- 70 The original Constitution only contains six provisions that explicitly provide human rights issues.

- 71 Every person shall have the right to live and to defend his/her life and existence.
- 72 (1) Every person shall have the right to establish a family and to procreate based upon lawful marriage.
- (2) Every child shall have the right to live, to grow and to develop, and shall have the right to protection from violence and discrimination.
- 73 (1) Every person shall have the right to better him/herself through the fulfillment of his/her basic needs, the right to education and to benefit from science and technology, art and culture, for the purpose of improving the quality of his/her life and for the welfare of the human race. (2) Every person shall have the right to improve him/herself through collective struggle for his/her rights to develop his/her society, nation and state.
- 74 (1) Every person shall have the right to recognition, guarantees, protection and certainty before a just law, and to equal treatment before the law.
- (2) Every person shall have the right to work and to receive fair and proper recompense and treatment in employment.
- (3) Every citizen shall have the right to obtain equal opportunities in government.
- (4) Every person shall have the right to citizenship status.
- 75 (1) Every person shall be free to embrace and to practice the religion of his/her choice, to choose one's education, to choose one's employment, to choose one's citizenship, and to choose one's place of residence within the state territory, to leave it and to subsequently return to it.
- (2) Every person shall have the right to the freedom to hold beliefs (*kepercayaan*), and to express his/her views and thoughts, in accordance with his/her conscience.
- (3) Every person shall have the right to the freedom to associate, to assemble and to express opinions.
- 76 Every person shall have the right to communicate and to obtain information for the purpose of the development of his/her self and social environment, and shall have the right to seek, obtain, possess, store, process and convey information by employing all available types of channels.
- 77 (1) Every person shall have the right to protection of self, family, honor, dignity, and property, and shall have the right to feel secure against and receive protection from the threat of fear to do or not do something that is a human right.
- (2) Every person shall have the right to be free from torture or inhuman and degrading treatment, and shall have the right to obtain political asylum from another country.
- 78 (1) Every person shall have the right to live in physical and spiritual prosperity, to have a home and to enjoy a good and healthy environment, and shall have the right to obtain medical care.
- (2) Every person shall have the right to receive facilitation and special treatment to have the same opportunity and benefit in order to achieve equality and fairness.
- (3) Every person shall have the right to social security in order to develop oneself fully as a dignified human being.
- (4) Every person shall have the right to own personal property, and such right may not be arbitrarily interfered with by any party.
- 79 (1) The rights to life, freedom from torture, freedom of thought and conscience, freedom of religion,

- freedom from enslavement, recognition as a person before the law, and the right not to be tried under a law with retrospective effect are all human rights that cannot be limited under any circumstances.
 - (2) Every person shall have the right to be free from discriminative treatment based upon any grounds whatsoever and shall have the right to protection from such discriminative treatment.
 - (3) The cultural identities and rights of traditional communities shall be respected in accordance with the development of times and civilizations.
 - (4) The protection, advancement, upholding and fulfillment of human rights are the responsibility of the state, especially the government
 - (5) For the purpose of upholding and protecting human rights in accordance with the principle of a democratic and law-based state, the implementation of human rights shall be guaranteed, regulated and set forth in laws and regulations.
- 30 (1) Every person shall have the duty to respect the human rights of others in the orderly life of the community, nation and state.
- (2) In exercising his/her rights and freedoms, every person shall have the duty to accept the restrictions established by law for the sole purposes of guaranteeing the recognition and respect of the rights and freedoms of others and of satisfying just demands based upon considerations of morality, religious values, security and public order in a democratic society.
- 31 MPR Decree No. XVII/MPR/1998 on Human Rights, *available in Indonesian language at* <http://www.geocities.com/CollegePark/Hall/1981/tap17.htm> (last visited 23 December 2003).
- 82 "Bill on Truth, Reconciliation drafted," *The Jakarta Post*, 5 January 2002, *available at* <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20020105.A03> (last visited 23 October 2003).
- 83 Agung Yudhawiranata, *Menyelesaikan Pelanggaran Hak Asasi Manusia di Masa Lalu: Masalah Indonesia Pasca-Transisi Politik* (Dealing with the Past Gross Human Rights Violations: Problem of Indonesia After Transition), *I Dignitas* 1 (2003): 42.
- 84 Law of the Republic of Indonesia, No. 13 of 2003, Law Concerning Labor, *is available at* http://www.ri.go.id/produk_uu/produk2003/uu2003/uu13'03.htm (last visited 23 October 2003).
- 85 Law of the Republic of Indonesia, No. 40 of 1999, Law Concerning the Press, *is available at* http://www.asiamaya.com/undang-undang/uu_pers/uu_pers_index.htm (last visited 23 October 2003).
- 86 Law of the Republic of Indonesia, No. 23 of 2002, Law Concerning Child Protection, *is available at* http://www.ri.go.id/produk_uu/isi/uu2002/uu23'02.htm (last visited 23 October 2003).
- 87 Law of the Republic of Indonesia, No. 18 of 2003, Law Concerning Advocate, *is available at* http://www.ri.go.id/produk_uu/produk2003/uu2003/uu18'03+pjls.htm (last visited 23 October 2003).
- 88 Law of the Republic of Indonesia, No. 20 of 2003, Law Concerning National Education, *available at* http://www.ri.go.id/produk_uu/produk2003/uu2003/uu20'03.htm (last visited 23 October 2003).
- 89 Law of the Republic of Indonesia, No. 2 of 2002, Law Concerning the Police, *is available at* http://www.ri.go.id/produk_uu/isi/uu2002/uu2'02.htm (last visited 23 October 2003).

- 90 Law of the Republic of Indonesia, No. 32 of 2002, Law Concerning Broadcast, available at http://www.ri.go.id/produk_uu/isi/uu2002/uu32'02.htm (last visited 23 October 2003).
- 91 Article 4 of the Police Law.
- 92 General Elucidation of the Advocate Law.
- 93 "Aceh to implement caning punishment," *The Jakarta Post*, 28 September 2002, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20020928.D03> (last visited 23 October 2003); "Caning comes into effect in Aceh on 1st day of Ramadhan," *The Jakarta Post*, 28 October 2002, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20021028.D04> (last visited 23 October 2003).
- 94 The Indonesian Chinese are discriminated against since the time their birth certificate is issued with a mandatory stamp denoting their ethnicity. They are forced to prove their citizenship at many stages throughout their lives. They also have to provide additional certification, and pay higher fees, for identification cards, passports and other legal documents. See: "Chinese-Indonesians continue to suffer from discrimination," *The Jakarta Post*, 18 February 2002, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20020218.A07> (last visited 23 December 2003). In 2002 it was reported that Hendrawan top shuttler who saved the country in the Thomas Cup championship had to struggle to get his citizenship certificate before heading to China for badminton tournament. See: "Chinese-Indonesians still discriminated against," *The Jakarta Post*, 21 May 2002, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20020521.@03> (last visited 23 December 2003).
- 95 The Convention was ratified in 1984 based on Law 7 of 1984 under the Soeharto administration.
- 96 Komnas HAM establishment was the result of workshop jointly conducted by Indonesian Foreign Ministry and the United Nations. Komnas HAM maintain website at <http://www.komnasham.go.id/index.html> (last visited 8 September 2003).
- 97 Recommendations have been issues with respect to imposition of martial law in Aceh, the Trisakti and Semanggi incidents, the Bulukumba incident, abuse of human rights in Papua, eviction in City of Jakarta and many others.
- 98 "Rights activists slam TNI over summons," *The Jakarta Post*, 10 January 2002, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20020110.A04> (last visited September 8, 2003); "TNI, Komnas HAM gripped in legal battle," *The Jakarta Post*, 26 July 2002, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20030726.A02> (last visited 8 September 2003).
- 99 "Hakim pledges to fight for human rights," *The Jakarta Post*, 14 September 2002, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20020914.A04> (last visited 14 September 2003).
- 100 One agency is referred to as the Directorate General for Protection of Human Rights which succeeded the former Ministry of Human Rights after its liquidation. The other is the Human Rights Research and Development Agency.
- 101 Kontras maintains website at the following address <http://www.desaparecidos.org/kontras/>
- 102 Imparsial maintains website at the following address <http://www.imparsial.org/>
- 103 Elsam maintains website at the following address <http://www.elsam.or.id/>
- 104 PBHI maintains website at the following address www.pbhi.or.id

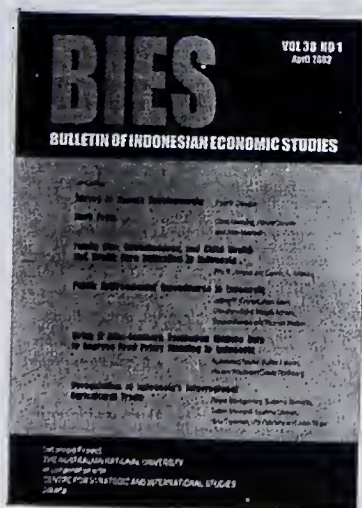
- 105 Anders Uhlin, *Indonesia and the Third Wave of Democratization: the Indonesian Pro-democracy Movement in a Changing World* (Surrey: Curzon, 1997), 113-114.
- 106 "Alumni call on YLBHI to renew mission," *The Jakarta Post*, 28 September 2002, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20020928.C03> (last visited 8 September 2003).
- 107 Mulyana Ssenyonga discussed the various reasons for people to establish and join NGOs. See: Mulyana Ssenyonga, NGOs, a chance for employment, *The Jakarta Post*, 21 April 2001, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20010421.C02> (last visited 8 September 2003).
- 108 "LBH offices across the country on the brink of collapse," *The Jakarta Post*, 9 October 2002, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20021009.A04> (last visited 8 September 2003).
- 109 LBH's financial difficulty has become worsened when it decided to sever ties with funding organizations from the United States, Australia and Britain in protest against these countries' involvement in the attack on Iraq. See: "LBH offices permitted to raise fund," *The Jakarta Post*, 12 April 2003, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20030412.C13> (last visited 9 September 2003).
- 110 LBH, for example, had been supported by Holland-based NOVIB, Sweden-based SIDA and Belgium-based Triple Eleven. See: "Alumni urge YLBHI to introspect and change," *The Jakarta Post*, 7 July 2003, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20030707.C01> (last visited 8 September 2003).
- 111 Such resentment can be read in Carl Chairul article, see: *Ibid.*, Carl Chairul, "Enough of democracy and human rights!,"
- 112 "Human rights activists targeted in terror attacks," *The Jakarta Post*, 14 March 2002, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20020314.G06> (last visited 13 September 2003); "Unidentified men shoot human rights lawyer's car," *The Jakarta Post*, 13 November 2001, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20011113.E02> (last visited 13 September 2003)..
- 113 There are 289 Private Printed Media Company, 6 (six) Television Company including the TVRI as the National TV Institution, and 740 Radio Broadcast Company during the Former-Soeharto administration. But soon after the Soeharto regime step down and the promulgation of the Press Law, there are 1687 private printed media Companies, 10 private television company and one public, and 1.100 privately run radio companies and one public radio. *The Indonesian Press Directory 2002-2003* (Jakarta: Serikat Penerbit Surat-kabar, 2003), 10-18,
- 114 There are two most noted lawsuits. First is the case involving Tomy Winata, a controversial businessman with powerful friends, who sued *Tempo* Weekly Magazine for US\$22 million. Such case is still ongoing and there has yet been any decision. The second case involves Texmaco and its former owner, a leading textile company in the verge of bankruptcy, who sued *Kompas* daily newspaper and *Tempo*. Texmaco and *Kompas* had reached out of court settlement eventhough the court had started examining the case. However, in the case of Texmaco against *Tempo* there are two cases decided. One against *Tempo* weekly magazine which resulted in the Court rejecting Texmaco's claim. The other one against *Tempo* newspaper which resulted in Court found *Tempo* guilty of libelous articles.

- 115 "Press Freedom," *The Jakarta Post*, 12 September 2003, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20030912.E01> (last visited 23 December 2003).
- 116 *The Jakarta Post*, 25 February 2000, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20000225.@05> (last visited 23 December 2003).
- 117 The report entitled Indonesian "Commission of Investigation into Human Rights Violations", available at <http://www.jsmp.minihub.org/Reports/KPP%20Ham.htm> (last visited 29 December 2003).
- 118 "Conspiracy by Generals led to East Timor Killings: UN" *Sydney Morning Herald*, 12 April 2001, available at <http://www.globalpolicy.org/security/issues/etimor/2001/0412wct.htm> (last visited 23 December 2003); "KPP Ham Not on the Prowl for a Suspect," *Kompas*, 16 February 2000, available at <http://www.kompas.com/kompas-cetak/0002/16/english/kpp.htm> (last visited 23 December 2003).
- 119 Presidential Decree 53 of 2001 available at http://www.ri.go.id/produk_uu/isi/keppres2001/kp-53-01.html.
- 120 Presidential Decree 96 of 2001 available in Indonesian language at http://www.ri.go.id/produk_uu/isi/keppres2001/kp96'01.html
- 121 "Defendants of East Timor mayhem," *The Jakarta Post*, 26 December 2002, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20021226.O03> (last visited 8 September 2003)
- 122 Article 7 of the Human Rights Court Law provides two gross violations of human rights (international crimes), namely, genocide and crimes against humanity. Article 9 provides the detail of crimes against humanity.
- 123 Article 42 of the Human Rights Court is a direct translation of Article 28 of the Rome Statute.
- 124 "Unexpected three year jail sentence for Damiri," *The Jakarta Post*, 6 August 2003, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20030806.A04> (last visited 8 September 2003).
- 125 "Abilio gets three years in jail for rights violations," *The Jakarta Post*, 15 August 2002, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20020815.@01> (last visited 8 September 2003); A translation in English of the judgement is available at http://www.bimun.org/download/soares_judgement.pdf.
- 126 "Justice Denied for East Timor Indonesia's Sham Prosecutions, the Need to Strengthen the Trial Process in East Timor, and the Imperative of U.N. Action," *Human Rights Watch* is available at <http://www.hrw.org/backgrounder/asia/timor/etimor1202bg.htm> (last visited 14 October 2003)
- 127 "East Timor human rights trials: All just a game," *The Jakarta Post*, 26 December 2002, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20021226.O01> (last visited 23 December 2003); "Human rights tribunal fails to uphold justice," *The Jakarta Post*, 29 January 2003, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20030129.C03> (last visited September 14, 2003); also "Pengadilan HAM Jauh dari Standar Internasional (The Ad Hoc Court is Far from International Standard)," *Kompas*, 6 May 2002, available at <http://www.kompas.com/kompas%2Dcetak/0205/06/nasional/peng07.htm> (last visited 24 October 2003).
- 128 *Id.*
- 129 See: "Intended to Fail: The Trials before the Ad Hoc Human Rights Court in Jakarta," David Cohen, available at <http://www.ictj.org/downloads/IntendedtoFailwithAnnexes-FINAL.pdf> (last visited 23 November 2003). Also "International Scrutiny Looms over Right Trials," *The Jakarta Post*, 11 De-

- ember 2002, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20021211.C04> (last visited 23 December 2003); "Indonesia's Court for East Timor a 'Whitewash,'" *Human Rights News*, 20 December 2002, available at <http://www.hrw.org/press/2002/12/etimor1220.htm> (last visited 8 September 2003).
- 130 "Indonesia-Human Rights Tribunal for East Timor," available at <http://www.state.gov/r/pa/prs/ps/2002/12810.htm> (last visited 23 October 2003).
 - 131 "Suspects named in the Tanjung Priok case," *The Jakarta Post*, 14 November 2002, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20021114.C01> (last visited 23 December 2003).
 - 132 The Executive Summary of KPP HAM report on Tanjung Priok in Indonesian language is available at http://www.komnasham.go.id/PD_arsip_kasus/KPP/tanjungpriok.htm (last visited December 23, 2003).
 - 133 *Id.*, the Executive Summary of KPP HAM report on Tanjung Priok.
 - 134 "Tanjung Priok rights tribunal to begin," *The Jakarta Post*, 29 August 2003, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20030829.C04> (last visited 24 December 2003).
 - 135 "Tanjung Priok rights trial eventually start," *The Jakarta Post*, 15 September 2003, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20030915.A01> (last visited 24 December 2003).
 - 136 *Ibid.*, "East Timor human rights trials: All just a game."
 - 137 The course lasted for six days and attended by 75 judges and prosecutors. See: "Human rights course for judges," *The Jakarta Post*, 6 November 2001, available at <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20011106.E05>
 - 138 See: Progress Report VII Ad Hoc Court for East Timor by ELSAM (Indonesian), 7 October 2002, available at <http://www.elsam.or.id/publikasi/padhoc/progress%20report%20VII.PDF>
 - 139 Winarno Yudho, a lecturer at University of Indonesia who became a judge at the Ad Hoc Human Rights Court, was quoted by the *Jakarta Post*, "The absence of key witnesses, a failure to perceive the seriousness of crimes against humanity and the failure to use video-conferencing technology to present witness testimonies all prove that the court has not been treated seriously and has operated well below international standards," See: "East Timor human rights trials: All just a game."
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 - 141 "Pentagon refuses to reopen probe into alleged Vietnam War atrocities," *Channelnewsasia.com*, 20 October 2003, available at http://www.channelnewsasia.com/stories/afp_asiapacific/view/53102/1/.html (last visited 21 October 2003).
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Globalization and Human Security in Southeast Asia

M.C. Abad, Jr.

THE debate whether there is a benign link between economics and security has been going on for decades, if not centuries. In the 1909 classic *The Great Illusion*, British author Norman Angell argued that war was useless in the modern economic era. He believed that global economic integration made the old logic of using the threat or use of force absurd. Even today, notwithstanding the two world wars, many continue to adhere that free trade would increase contact among people, prosperity among nations, and shared stakes in maintaining peace.¹

On the other side of the debate are those who believe that the tasks of maintaining peace and promoting eco-

nomic linkages require a confluence of many other factors. The benign link between economics and security cannot be assumed. On the contrary, unbridled opening of national economies could aggravate economic and social insecurities and even lead to political and security conflicts both at the domestic and inter-state levels.

Most policy makers today are no longer concerned about the value of economic liberalization and interdependence in the maintenance peace and security among nations, but on the ability of nations or group of nations in managing the ensuing new power relations and the social impact of economic change as a result of globalization.² Specific challenges ar-

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¹See discussions of *The Great Illusion* in Michael Howard (ed.), *War and the Liberal Conscience* (New Brunswick: NJ Rutgers University Press, 1994).

²For instance, see Robert B. Zoellick, "Economics and Security in the Changing Asia-Pacific," *Survival*, Vol. 39, No. 4, (Winter 1997-1998), 29-51. A globally integrated economy is an unprecedented phenomenon, not to be confused with economic internationalization. In fact, a world economy has existed since the 16th century, based on the development of international trade, foreign direct investment

ising from globalization include (1) the different levels and pace of economic growth; (2) intensifying competition for markets and resources among nations; and (3) "the challenge within" — the social impact of globalization or what some have referred to as the public purpose of integration.³ The rest of this paper will focus on this third challenge.

THE BENEFITS OF ECONOMIC GLOBALIZATION

Studies have shown that, in general, global integration through economic liberalization has produced positive results. A World Bank study shows that 24 developing countries that increased their integration into the world economy over two decades ending in the late 1990s had achieved higher growth in incomes, longer life expectancy and better school attendance. These countries, home to some 3 billion people, enjoyed an average 5% growth rate in income per capita

in the 1990s compared to 2% in industrial societies.⁴

Many of these developing countries have adopted domestic policies and institutions that have enabled them to take advantage of global markets and have sharply increased the share of trade in their GDP. Their annual growth rates increased from 1% in the 1960s to 5% in the 1990s. The labor sector in these integrating countries saw wage increases and improved employment opportunities.

Research shows that developing countries that have become more open have grown faster compared to those that have not. A comparative study, which ranks developing countries in order of their increases in trade relative to national income over the past 20 years, shows that the top third of the list, the "globalizing camp" has increased their trade relative to income by 104%, while the bottom two-thirds, the "non-globalizing" camp, trade less today than they did 20 years ago.⁵

Notwithstanding the reversals caused by the financial crisis of 1997-1998, the economic record of East

and migration. But the engine of the world economy is the national state. Today's global economy has the capacity to work as a unit, in real time, on a planetary scale (See M. Castells, *The Rise of the Network Society*, Blackwell Publishers, 1996).

³See Lawrence H. Summers, "Reflections on Managing Global Integration," Speech at the Annual Meeting of the Association of Government Economists, New York City, 4 January 1999.

⁴David Dollar and Paul Collier, *Globalization, Growth, and Poverty: Building an Inclusive World Economy* (The World Bank and Oxford University Press, 2001).

⁵David Dollar and Aart Kraay, "Globalisation: Spreading the Wealth," *Foreign Affairs*, Vol. 81, No. 1, January-February 2002, pp. 120-133.

POVERTY RATES IN EAST ASIA 1975-1995⁶

| Economy | 1975 | 1985 | 1995 |
|-----------------------|------|------|------|
| Philippines | 35.7 | 32.4 | 25.5 |
| Malaysia | 17.4 | 10.8 | <1.0 |
| Indonesia | 64.3 | 32.2 | 11.4 |
| Thailand | 8.1 | 10.0 | <1.0 |
| East Asia | 57.6 | 37.3 | 27.9 |
| East Asia minus China | 51.4 | 35.6 | 18.6 |

Asia over the past three decades was impressive by any measure. As a result of policies favoring outward-oriented growth, high savings and investment, and sound fiscal positions, per capita incomes in the region reached, on average, 10 times higher than 30 years ago. Rapid growth has been the basis for equally impressive improvements in social indicators: reductions in poverty, increased investment in human capital, improved health care, and lower incidence of disease. Since the 1960s, life expectancy in the region has risen, on average, from 60 years to 70 years. The rate of poverty in the region (without China) dramatically decreased from 51% to 18% between 1975 and 1995.

In pursuit of the economy of scale, regional organizations in the Asia Pacific have sanctioned the lib-

eralization and integration agenda. The Association of Southeast Asian Nations has the ASEAN Free Trade Area, which has been in place since 2003; the Asia Pacific Economic Cooperation has the Bogor Declaration of free and open trade and investment in the Asia-Pacific no later than 2010 for industrialized economies and 2020 for developing economies; and the ASEAN+3 Process (Southeast Asia plus, China, Japan, and South Korea) is looking into the feasibility of an East Asia Free Trade Area. Meanwhile, ASEAN has entered into FTA negotiations with China and India. Efforts that could pave the way for bilateral FTAs between individual ASEAN Member Countries and the United States are underway.

In short, ASEAN's response to globalization is to integrate — simultaneous integration within the region and between the region and the rest of the world. Regional economic integration is premised on the operational efficiency derived from the economy of scale of a critical mass. The ASEAN free trade and investment zone is supposed to enhance the re-

⁶Ahuja, V., Bidani, B., Ferreiro, F. and Walton, M., *Directions in Development: Everyone's Miracle?: Revisiting Poverty and Inequality in East Asia* (Washington DC: World Bank, 1997). Poverty line is set at \$1 a day per capita using 1985 prices.

gion's competitiveness by exploiting the comparative advantages and combined markets of the ten economies of Southeast Asia. The Initiative for ASEAN Integration (IAI) has been undertaken to increase the integrative capacity of the organization's newer members by developing their human resources, infrastructure, information and communication technology (ICT), and trade and investment regimes. In the process, the IAI is expected to help bridge the development gap between the older and newer members of ASEAN. Common economic spaces are to be pursued not only among ASEAN countries but also between the region and its major economic partners.

THE RISKS OF GLOBALIZATION

Global integration has its downside in the sense that the non-globalizing camp continues to be marginalized. For many of the least-developed countries, the problem is not that they are being impoverished by globalization, but that they are in danger of being largely excluded from it. The insignificant 0.4% share of these countries in world trade in the second half of the 1990s was down by half from 1980.⁷ Amre

Moussa, Secretary-General of the Arab League, describes this trend the "polarization effects" that lead to widening gaps among and within nations.⁸

At the same time, as economies become more integrated, it is not only the opportunity for wealth creation that is multiplied, but also volatility and the opportunity for destabilizing shocks and contagion. This phenomenon has been described as "kaleidoscopic comparative advantage," a notion that globalization has led to fierce competition where slight shifts in costs can lead to shifting comparative advantage, which is increasingly volatile.⁹ Even the Director-General of the World Trade Organization has warned that rapid integration without adequate economic, regulatory, legal,

⁷From "Poverty in an Age of Globalization," World Bank, October 2000 in David Dollar and Paul Collier, *Globalization, Growth, and Poverty: Building an Inclusive World Economy*, The World Bank and Oxford University Press, 2001.

⁸Amre Moussa, "Managing Change in a Global Economy," Luncheon Address at the Third Mediterranean Development Forum, 7 March, 2000. Indeed, liberalization and global integration have been accompanied by the problem of inequality. Of the 6 billion people in the world today, 4.8 billion live in the developing and transition countries. These 4.8 billion people receive roughly \$6 trillion of global GNP. Thus, 80 percent of the world's population receives only 20% of the world's income. About 1.2 billion people in the world live on less than \$1 a day. See James D. Wolfensohn, Opening Address at the Annual World Bank Conference on Development Economics, 2001/2002.

⁹See Jagdish Bhagwati, "Free Trade: What Now," Keynote Address delivered at the University of St. Gallen, Switzerland, 25 May 1998.

and technological foundation could hold adverse consequences.¹⁰

Indeed, the processes of economic liberalization and integration are not without risks. The East Asian financial crisis, which quickly deteriorated into economic and social crises, demonstrated the peril of unbridled liberalization and integration into the world economy.

The Asian Development Bank has argued that the root causes of the financial crisis are structural premature liberalization (i.e., liberalization of financial markets without adequate supervision and regulation), crony capitalism, and policy mistakes in managing private capital inflows — and not weak macroeconomic fundamentals. The World Bank has also observed that the liberalization of domestic financial markets without adequate prudential regulation and supervision allowed banks and corporations to assume unhedged foreign borrowing positions that left them vulnerable to sudden currency fluctuations.

Although each crisis had its distinct precursors and trigger mechanisms, those precursors were, in general, high short-term debt relative to gross domestic product and decreasing productivity gains. South Korea had

short-term debt three times its foreign reserves while Indonesia and Thailand had short-term debt almost two times their foreign reserves. The sudden and snowballing loss of confidence of investors in the capacity of these countries to honor their debts and their rush to recover their capital were the immediate causes of the crises. National currencies were sharply devaluated, interest rates were raised rapidly and the price of basic commodities escalated. Business reversals led to massive unemployment. The financial crisis turned into big time economic crisis.

Responding to the first symptoms of the crisis, commercial banks froze credit lines, pushing companies to cut down on production, reduce their labor force and sell assets to remain solvent. The potential for expanding exports as a result of the devaluation could not be realized immediately owing to reduced availability of credit. The crisis was further exacerbated by cutbacks in government expenditures, although the three Asian countries most affected by the crises already had comparatively low levels of public expenditures relative to GDP. In 1995, the shares of central government expenditures relative to gross domestic product were 11%, 16% and 18% for Thailand, Indonesia and South Korea, respectively. As a result of the crisis, government expenditures in Thailand were reduced by about 15%. Overall, the World Bank

¹⁰Supachai Panitchpakdi, "Open markets, but look after the losers," *International Herald Tribune*, 21 October 2002.

estimates that the financial crisis costs about 18% of gross domestic product of the affected countries.

The financial and economic crisis quickly resulted into a high level of job losses and consequential social distress in Indonesia, Thailand and South Korea. While the crisis was not as severe in the Philippines as in these countries, nevertheless the demand contraction, increased inflation, and reduced employment opportunities seriously affected the vulnerable groups. The major social impact of the economic crisis lies in the sudden reversal of the system of sharing the benefits of economic growth through steadily improving employment prospects.

According to the ILO, between August 1997 and December 1998, rapid job losses saw unemployment rise in Indonesia from 4.3 million to 13.7 million people. In Thailand, the numbers exploded from 0.7 million in February 1997 to 1.9 million in December 1998. Unemployment in South Korea reached 7.6% in July 1998 (1.5 million) and peaked at 2 million

in 1999. Even in less severely affected economies, such as Hong Kong, China, Malaysia and Singapore, there were now twice as many people without work than before the crisis. In Hong Kong, the number of unemployed increased from 77,000 people in October 1997 to 152,000 in December 1998. In Malaysia, unemployment increased from 224,000 in December 1997 to 405,000 in December 1998. Over this period of two years, the number of poor in Indonesia increased by more than 10 million from 22.5 million (11.3% of total population) in 1996 to 33.2 million (17%) in 1998.

PROMOTING HUMAN SECURITY

International cooperation and domestic reforms have been taken to prevent a recurrence of the financial contagion. But the nature of the international financial system continues to pose a threat against financial stability. Technological advances have made national frontiers more porous. States are less able, for example, to control or even monitor the transborder movement of capital at the rate of \$2 trillion a day. Be-

NUMBER OF COUNTRIES BY TYPE OF SOCIAL SECURITY PROGRAM:
SELECTED YEARS

| Type of Program | 1940 | 1949 | 1958 | 1967 | 1977 | 1987 | 1997 |
|-----------------|------|------|------|------|------|------|------|
| Any type | 57 | 58 | 80 | 120 | 129 | 141 | 172 |
| Unemployment | 21 | 22 | 26 | 34 | 38 | 40 | 68 |

Source: *Social Security Programs throughout the World*, U.S. Social Security Administration, 1997.

tween 1990 and 1998, financial assets managed by institutional investors more than doubled to over \$30 trillion, about equal to world GDP. The capacities of developing countries in institutional safeguards for minimizing the risks of globalization of finance remain weak.

One of the most important lessons of the devastating regional contagion is that it is the ordinary people who bear most of the brunt of economic crisis and business failures. Despite this recognition, the concerted efforts at reforming the international financial architecture have not been matched by global initiatives to protect the vulnerable sectors of society, including the labor sector. As an immediate result of the economic contagion, 10 million more have aggravated the 120 million unemployed workers worldwide.

Only minority of countries in the world that have some type of a social security program have also an unemployment benefit scheme in place (68 out of 172 in 1997) — though there has been a rising trend especially in the 1980s and 1990s. Unemployment insurance (UI) programs vary across countries and over time in terms of eligibility for benefits, their size and duration, and methods of financing.

Over the last 50 years in the ESCAP region, 23 countries (as against 13 in the 1940s) had provided income

security for injured workers; 22 (as against two in the 1940s) had extended old-age, invalidity and death benefits; 14 (as against two in the 1940s) had given sickness and maternity benefits; six (as against one) had provided unemployment benefits; and four (as against one) had given family allowances. While there is hardly any country in the region that has no formal social security system of one sort or other, most of them lack true universality of coverage.¹¹

Except South Korea, all other countries, which suffered financial and economic crisis, namely Indonesia, Malaysia, the Philippines, Singapore and Thailand, did not have unemployment insurance to cover the dislocated workers as a result of adjustments. Instead, limited forms of emergency responses were undertaken to mitigate the social impact of the crisis.¹²

In Indonesia, existing subsidies on food, fuel, electricity, medicine, and other essential items have been

¹¹See ESCAP, *Towards a Social Development Strategy* (New York: United Nations, 1992), 128-129. See also ESCAP, *Towards Social Security for the Poor in the Asia-Pacific Region* (New York, United Nations, 1996); and ESCAP, *Social Costs of Economic Restructuring in Asia and the Pacific* (United Nations publication, Sales No. E.94.II.F.2).

¹²The following is based mainly on "Social Policy and Governance in East Asia and the Pacific Region (World Bank Homepage: www.worldbank.org).

modified to ensure effective targeting of benefits to the poor. In particular, the program of targeted rice subsidies has contributed to stabilization of the price of rice in the country (after a period of severe price increases). The program also included employment-generating public works directed toward poor households, programs to help children from low-income families remain in school, and credit programs targeted to farmers and small- and medium-sized enterprises.

In Thailand, where the regional contagion started, one of the measures undertaken in the aftermath of the financial crisis was the creation of the Social Investment Fund (SIF) in 1988. The SIF, a channel for accessing funds from a World Bank loan, is responsible for allocating funds to demand driven community projects in the form of grants aimed at alleviating the short-term economic and social impact of the crisis. This demand-driven social safety net is supposed to complement the state run social security system, which covers only 15% of the workforce.

The Philippines' response was targeted poverty alleviation measures through improved access to quality education, health services, and livelihood opportunities. When the crisis struck, the government had in place the Comprehensive and Integrated Delivery of Social Services program, which tried to address the minimum

basic needs of poor families in fifth and sixth class municipalities and urban poor communities. Despite this comprehensive program, only 10 percent of the poor reportedly benefit from government intervention. Other specific responses to mitigate the impact of the financial crisis on employment include: (a) assistance by the Public Employment Service Office to reemploy or retrain displaced urban workers; (b) emergency loans to the unemployed by the Employment Compensation Commission; and (c) emergency rural works programs by the Department of Labor and Employment.¹³

ASEAN has begun to restructure its mechanisms for cooperation in social development with a view to refocus their activities from projects to policy coordination, such as on the implications of economic integration and greater trade and services liberalization, including the impact of the General Agreement on Trade in Services (GATS) on social issues. Workshops on preparing workers for changes in the labour market as well as mutual recognition of professions and skills as a means to enhance employability and regional mobility have been held. An ASEAN Task Force on Social Safety Nets has been

¹³Republic of the Philippines, *Medium-Term Philippine Development Plan*, Chapter 13, 2001-2004.

established to implement the ASEAN Plan of Action on Social Safety Nets.

At the ASEAN Post-Ministerial Conference of July 1999, Thailand proposed the establishment of an ASEAN social safety net fund that would pool resources from donor agencies and governments to assist the vulnerable sectors of society. A more specific idea was proposed by the Philippines in August 2002 to alleviate poverty by establishing an ASEAN facility for micro-financing. The test of genuine commitment of ASEAN member countries lies on whether or not they are prepared to put up their own resources, however limited, before mobilizing external resources. To its credit, Japan has come forward by offering to support ASEAN in establishing social safety nets by making use of the Japanese Official Development Assistance.¹⁴

Although there are studies that indicate the feasibility of designing appropriate unemployment insurance for the relatively higher income East Asian countries (i.e., South Korea), developing economies, in general, are not in the best position to provide for

it.¹⁵ In least developed and developing economies, where unemployment is hardly a meaningful concept amidst predominantly subsistence activities, small formal sector, and small tax base, social security mostly takes the private form of extended family networks or informal insurance mechanisms.¹⁶ At the same time, public sector intervention to provide for unemployment insurance is needed because private schemes, while able to mitigate temporary job losses, cannot insure against the risk of prolonged recession and economic crisis in this increasingly volatile world economy. The feasibility of UI in these countries would be an interesting and useful research area, not to mention the enormous challenge of administering a UI system.

This is where the international community, particularly the multilateral agencies and governments, must come in. Mitigating the social impact of liberalization and integration is a legitimate universal concern that requires resources beyond the capability of economies in transition

¹⁴"Four Initiatives for Japan-ASEAN Cooperation Toward the 21st Century," Statement by Japanese Prime Minister Obuchi at the ASEAN-Japan Summit in December 1998 in Hanoi. It was also on this occasion when Japan announced the establishment of a Japanese-funded "Human Security Fund" to be administered by the United Nations.

¹⁵Wayne Vroman, "Unemployment and Unemployment Protection," Urban Institute, May 1999. The author argues that UI would not be very expensive if past unemployment rates prevail again in the future in the higher income Asian countries.

¹⁶Zafiris Tzannatos and Suzanne Roddis, "Unemployment Benefits," Human Development Network, The World Bank, October 1998.

nd, more urgently, countries in financial crisis.

But there is no global social safety net. As described above, most of the counter measures came in the forms of technical assistance to reform the financial and corporate sectors as well as financial injections to bail out failed conglomerates. Even those for "social purposes" are in the form of technical assistance for institutional capacity building. For example, the Asia-Europe Meeting put up the Asian Financial Crisis Response Trust and amounting to \$45 million in June 1998 to support reform programs agreed upon between the crisis-hit countries and the international financial institutions. About 55% of the aid went to financial and corporate sector programs. The rest was used to build government capacity to monitor the social impact of the crisis supposedly to sharpen the targeting of public intervention programs. Similarly, Japan has set up the Social Development Fund to be administered by the World Bank and the Asian Development Bank for the same purpose.

Globalization and its negative consequences are global phenomena that should be addressed at the global level. Indeed, "the challenge within" could be dealt with at various levels — corporate, national, regional, and global, which are interrelated. For example, employment conditions could be improved by compelling na-

tional governments to abide by the "social clause" or core labor standards that could be incorporated into WTO mechanisms and processes. Not having the labor-trade linkage would perpetuate the present freedom of repressive governments and companies to continue to curtail workers' rights as a tool for export maximization, while continuing to leave the multilateral system powerless to take any effective measure to redress such exploitation.¹⁷ At the same time, developing economies must be vigilant

¹⁷See International Confederation of Free Trade Unions (ICFTU), "Enough exploitation is enough: A response to the Third World Intellectuals and NGOs Statement Against Linkage (TWIN-SAL)," 15 September 1999 (ICFTU Website). ICFTU claims to represent 124 million workers in 143 developing, transition and industrialised countries with two-thirds of its affiliates coming from developing countries. ICFTU argues that it may be true that, as the TWIN-SAL statement says, not all those who oppose linkage are corporate interests and malign governments. But here are far too many such interests and governments opposing core labour standards at the WTO for it to be a coincidence. It is those parties which have most to gain from the perpetuation of a status quo which enables them to continue their exploitation of workers without any constraints. Furthermore, these same governments which refused to countenance any discussion of core labour standards at the WTO are those which were the obstacles all the way through the debates on the 1998 ILO Declaration on Fundamental Principles and Rights at Work. There is little sign of good faith from governments which claim at the WTO that core labour standards are best dealt with by the ILO, but then at the ILO do their utmost to block any strengthening of the ILO's capacity to deal with

against its use as a non-tariff barrier to international trade. Over the long term, ASEAN should look into having an equivalent of the European Community Charter of the Fundamental Social Rights of Workers. The Charter, which establishes the major principles on which the European labor law and social protection model is based, is founded on the policy that the "realization of the single market should not be regarded as a goal in itself."

The closest the world has come to a global social safety net is the current system of development assistance. However, even the United Nations Development Programme has observed that the Official Development Assistance (ODA) system is fatally flawed for such a purpose, both in its inadequacy to meet current demands and in the pattern of its allocation. The current level of ODA is only 0.3% of the GNP of donor countries or less than half of the 0.7% target if the Millennium Summit's goal of cutting poverty in half is to be achieved by 2015. Industrialized economies spend \$350 billion a year on agricultural subsidies — roughly seven times what they allocate for development assistance.

the issue effectively. And from the opposite side of the debate, it is significant that the proposal to discuss core labour standards at the WTO is supported by the government of South Africa, whose credentials to uphold the principles of socially just, equitable and non-discriminatory patterns of trade and development are unquestionable.

The UNDP has advocated that if overseas aid is to serve as a global social safety net, it will have to be based on principles of pertinency, flexibility, and adequacy.

The Copenhagen Declaration on Social Development has committed to establish appropriate social safety mechanisms to minimize the adverse effects of structural adjustment, stabilization or reform programmes on the workforce. It called on international organizations and the United Nations system, in particular the Bretton Woods institutions, to integrate social development goals into their policies, programmes and operations. Meanwhile, the International Labour Organization has convened the World Commission on the Social Dimension of Globalization comprising 26 eminent persons from various countries.

Moreover, the Commission on Global Governance has called for the establishment of an Economic Security Council (ESC) at the same level as the United Nations Security Council. The ESC would serve as a global forum that would give political leadership to ensuring the consistency among policy goals of the main multilateral economic institutions and to promoting balance development.¹⁸ On the other hand, the Global Governance

¹⁸*Our Global Neighbourhood*, The Report of the Commission on Global Govern-

ceptual ideas to its immediate region if it has been experiencing multi-dimensional crisis? In the past, while its economy was at its height, Indonesia could manage to foster the establishment of Asia Pacific Economic Cooperation (APEC) and ASEAN Regional Forum (ARF), ASEAN growth triangles, and even a security agreement with Australia.

The unexpected economic crisis in 1997 was a deadly blow to Indonesia's progress. This crisis had impacted people throughout the country in which the inflation was high and poverty rate had increased. This was followed by weak political parties, as well as unresolved issues on mass lay-off, greater unemployment, land ownership and natural resources, which subsequently encouraged them to bring pressures to the institutions of the state and its bureaucracy. To date, people's access to health and education have been reduced, while at the same time the number of families experiencing family break up and domestic violence has also increased. Such situation has even been worsened by the longstanding issues of corruption, collusion and nepotism (commonly known as KKN) at both the capital and provincial levels. Moreover, Indonesia also experienced the down fall of three presidents within five years.

All those problems had brought Indonesia to the period of 'annus hor-

ribilis', which is a contrast to the 33 years of forced stability under the Soeharto regime. The consequences are highly serious: the failed diplomacy to keep East Timor under Indonesian jurisdiction, turbulence in various provinces which may lead to disintegration, the prolongation of the military special ruling in Aceh province, uncontrolled mass riots nationwide, and an inability to deal at the same par with international financial institutions such as the International Monetary Fund and the World Bank.

While the current government has no blue print to deal with globalization issues, it has found itself incapable of producing a concerted strategy involving its people to properly handle the crisis. As the general election is getting closer, elite in the bureaucracy have found the necessity to play different roles at the same time, that is, being statesmen during working hours, and becoming politicians outside working hours. In short, in the current Indonesian politics, party members and most officials are busy themselves finding the best way of winning the parliamentary election in April 2004 and the presidential election in September 2004, and how to design a possible winning team for a cabinet coalition up to 2008. In this case, most government officials and all the elites are so busy in preparing the general election that Koizumi's initiative is accordingly ignored and not responded.

REASONS FOR INDONESIA'S SLOW RESPONSE

The Indonesian government has regarded Japan's leadership under Junichiro Koizumi as a unique one: a Prime Minister from LDP who is leading a cabinet which is not an LDP coalition cabinet. As a result, it must be very difficult for him to concentrate decision making power in the Prime Minister Office and the cabinet. This has become the reason why most of his cabinet ministers and also LDP officials usually do not speak in tandem with Koizumi's policy. If this pattern continues, his own party will very unlikely allow him to succeed, with a consequence that Koizumi might take drastic actions, such as breaking up with LDP and forming an alliance with the members of the Democratic Party of Japan.

In fact, not only Koizumi has insufficient leadership within his own party, but more critically, his weakness became more evident when he pledged to accelerate structural economic reforms amidst Japan's economic recession, with its banking system experiencing non-performing loans (Morrison, 2003: 79). In the perspective of the Indonesian government, therefore, Japan is facing a problem of self-confidence in managing its domestic reform. At the same time, while Indonesia itself is facing uncertainty of who will lead the nation, it would be diffi-

cult for the current government to provide a sophisticated response to Koizumi's idea and to expect the upcoming government to follow up such policies. The idea of a bipartisan foreign policy is something peculiar to the Indonesian government.

Koizumi's initiative seems to have been in the lack of precision right from the beginning. The idea was firstly introduced when Koizumi visited Singapore in January 2002, with Japan wanting to see a new community that acts together and advances together with the Association of Southeast Asian Nations (ASEAN), China, South Korea, Australia and New Zealand as its core members (Morrison, 2003: 80). At this stage, Indonesia began to view that ASEAN had been pictured within Japan's broader economic framework, along with other advanced economies.

The idea was later on reiterated during the ASEAN plus 3 (China, Japan, South Korea) Summit Meeting in Phnom Penh (Cambodia) on 4-5 November in the same year. On this occasion, Koizumi joined the leaders of ASEAN in signing a declaration incorporating their agreement to draw up a framework for a Comprehensive Economic Partnership, which foresees a Free Trade Agreement (FTA) by the end of 2004, and called for realization within ten years (*Look Japan*, January 2003: 4).

Reform Project has proposed the establishment of a World Human Development Trust dedicated to eradicating poverty by raising the living standards of the poorest segments of world population through micro finance. To finance the Trust, an innovative global tax would be levied on all arms transfers.¹⁹ The establishment of a Human Security Council has also been advocated to defend the new frontiers of global human security, such as deepening poverty and internal conflicts.²⁰ Various proposals to mobilize resources for multilateral initiatives have been put forward, i.e. a Tobin tax on movements of international foreign exchange, a tax on fossil fuels, and a tax for global emissions. It would need strong and sustained political will in support of a human security agenda and in overcoming positions associated with entrenched economic interests to get these ideas somewhere.

ance (New York: Oxford University Press, 1995), 155-162. The Commission, co-chaired by Ingvar Carlsson and Sharidath Ramphal, was a sequel to the Stockholm Initiative on Global Security and Governance of 1991.

¹⁹*Reimagining the Future: Towards Democratic Governance*, Report of the Global Governance Project (Melbourne: La Trobe University, 2000), 31.

²⁰Mahbub ul-Haq, "Global Governance for Human Security," in Majid Tehranian (ed.) *World's Apart: Human Security and Global Governance* (London: I.B. Tauris, 1999), 91.

CONCLUSION

As economies become more integrated, it is not only the opportunities that are multiplied, but also the instability inherent in an interdependent world with weak global institutions. Both the dynamism and the risks of global economic integration are functions of the market forces and private enterprise. Yet the structures of global governance required for protecting the public purpose are underdeveloped. Balance development requires an international consensus on a policy of liberalization with a human face.

It is difficult to argue against the benefits of economic liberalization in the form of greater realization of the efficiencies resulting from specialization and from the spur of competition. But governments have concomitant obligation to press for international commitment to ensure that public purposes are promoted not just to mitigate the negative impact of globalization, liberalization and integration, but as an imperative of building humane and caring societies. Neglect of the latter would equate the policy of liberalization with exploitation and a threat to human security. Having created a disincentive for war among nations, economics should now turn to "the challenge within."

Koizumi's New Policy on ASEAN and Indonesia's Response

Teuku Rezasyah

INTRODUCTION

GOVERNMENTS of the Association of Southeast Asian Nations (ASEAN) had a little surprise when the widely popular Junichiro Koizumi became Japan's new Prime Minister in early 2002. They were very familiar with his past campaign: reforming both the national economy and his own Liberal Democratic Party. Koizumi later on gained greater attention from within ASEAN soon after he launched a policy called 'An Initiative for the Comprehensive Economic Partnership', with Japan aspiring to create a community that acts together and advances together. In that initiative, two main issues have been pointed out: economic cooperation and other cooperation for the future such as education, human resources development, and transnational issues.

Interestingly, despite acknowledging the policy's future implications, ASEAN countries could hardly produce a concerted response, as they tended

to focus on their unilateral policies. While Thailand and Singapore preferred a faster track towards a Free Trade Agreement with Japan, Indonesia's response remained silent up to now. So far Koizumi's idea have not yet received wide attention inside Indonesia, as the country has not witnessed any inter-ministerial consultations as well as policy coordination with segments of the society.

This paper argues that Indonesia's lack of responses have been caused by the prolonged structural problems that the country has been facing, and that there is the need to see Koizumi's greater credibility and greater clarity in his idea. The paper will also examine the possibility in implementing Koizumi's policy to ASEAN.

INDONESIA'S STRUCTURAL PROBLEMS

As expressed in the old saying, foreign policy begins at home. Hence, how could a country contribute con-

The above declaration was moderately accepted by the Indonesian elite, as the idea was normative, and contained ideas to liberalize trade and spur growth between ASEAN and Japan. In fact, Megawati government would have used it as a whip to build its bureaucratic professionalism in dealing with Japan, and to strengthen policies to produce better infrastructures once Japan's idea becoming a reality. At this stage, the momentum is not properly taken by the Indonesian cabinet.

At the same time, there was a great concern when the ASEAN-Japan declaration stated its willingness to bring greater stability and prosperity to the region, with Koizumi reiterated desire to work on the philosophy 'acting together and advancing together' in Asia and ASEAN (*Look on*, January 2003: 4). While it was difficult for the Indonesian elite to contextualize their interests with the new things happening in ASEAN, East Asia and Asia, they have become more more confused when six months after Koizumi developed the original into 'Acting together-advancing together' as 'sincere and open partners' (*Japan*, July 2003: 2).

In preparing the 2003 Japan-ASEAN Charter for example, Japan used the term East Asia and Southeast interchangeably, which was more confusing. Understandably, Indone-

sia may feel uneasy in responding to Koizumi's initiative, considering the painful process of socioeconomic restructuring the country has been experiencing following the 1997 economic crisis. However, the lack of precision in Japan's idea itself has also hampered Megawati government's efforts to produce a proper response.

There is a high degree of wariness that Japan would involve Indonesia and ASEAN as a whole to support its global economic rivalry, which could bring strategic consequences. Questions begin to emerge if Japan has seriously thought of getting out of the West into Asia, and not getting out of Asia into Europe.

Such confusion is understandable, as the Indonesian government has begun to examine the way Japan perceives China. Professor Yuichi Funabashi's concern on the growth of Chinese economy in this case is a good example. Even though at this stage China is still depending on Japan for investment, however, there is a possibility that Chinese investors would take over Japanese companies. Furthermore, Funabashi also forecasted the possible alignment between the Chinese economy and the global Jewish interests, as well as China's possible alignment with India who has overseas born Indians in the Silicon Valley (*Voices*, 2002: 2). If this scenario works well, China would become a

new economic and political leader in the East Asian region, which will consequently change the existing strategic balance in the region.

A similar report produced by Japan's House of Councilors proved that Japan had a great worry of China which would have around 2 billion population by the year 2050, equipped with a stable economy combined with a good reform in the areas of Information and Technology. The country's membership in the World Trade Organization would certainly make China's presence more credible in the Asian region (Research Committee on International Affairs, 2001: 25). In the same way, Professor Takakazu Kuriyama from Waseda University, who is also the advisor to the Ministry of Foreign Affairs, had pointed out the necessity to conduct a proactive foreign policy through the integration of multi-polarization, globalization as well as democratization and a shift to market economies. Interestingly, Professor Kuriyama also acknowledges the fact that the world is much less willing to follow Washington's lead for a number of reasons (Kuriyama, 2000: 202).

Japan's concern over China and its readiness to play an independent role outside the US leadership have become Indonesia's main reason not to produce significant response to Koizumi's initiative, as it rejects to be part

of great power economic rivalries and also Japan's sub-system in its path for a stronger bargaining power *vis a vis* the rest of the world.

Competition challenged by China and India had been signaled by the Singapore Prime Minister Goh Chok Tong, while at the same time he also encouraged all ASEAN members to stick together (Vatikiotis and McBeth, 23 October 2003: 18). Indirectly, Goh had Japan in his mind as a source of economic security for ASEAN.

PROPOSED PROGRAMS

Admittedly, Japan has a great role to play in wide areas of cooperation aimed to accelerate its economic integration with ASEAN. High level of discussions had been conducted on the issues of liberalizing trade and investment, strengthening and fostering financial markets, as well as harmonizing market infrastructures and professional qualifications.

While supporting the above mentioned ideas, however, it remains a question whether the majority of ASEAN people will benefit from such cooperation. It is true that the ongoing cordial relationships have been developed by leaders of ASEAN and Japan. But considering the lack of predictability of the length of their leadership, with their commitments tend to produce long term consequences, it would be necessary to involve

the ASEAN society as a whole to play a greater role in the process.

At the same time, considering the gap already exists between the rich minority and poor majority in most ASEAN countries, again, Japan is in the position to promote ideas leading to sustainable poverty reduction and growth at the same time. For this purpose, Japan should focus on the following four ideas to involve a broader segments of the society, and not to restrict itself with the current ruling elites.

Dealing with The Globalization Issues

Japan has so far been eager to mutually develop common vision and values with its ASEAN partners in the areas of rule of law and justice, democratic principles, respect for fundamental human rights and traditional values, principles of the market economy, as well as prevention and peaceful settlement of conflicts.

Nonetheless, such ideas would become important only if the interested countries are capable of conducting massive socialization programs involving strategic elements, such civil servants, parliamentarians, the medias, and informal leaders. How has Japan really thought of approaching these groups? It would be necessary if Japan could work together with specific universities inside ASEAN, and sharing the above mentioned ideas through

workshops and short courses. If this pattern works well, this will accordingly improve the qualities of their legislation and regulations, as well as its long term contribution such as E-government.

Empowering The Society

Appropriate strategies to be developed would encourage the ruling governments of ASEAN to promote broad-based economic growth making and to efficiently use their local resources. They will also ensure the use of welfare services in their respected countries, and at the same time would encourage the local people to initiate development programs for their own needs. Consequently, training could be developed using modules following Japan's economic experiences in Southeast Asia, in cooperation with the local universities and training centres.

Special attention should be given to improve rural women's participation. In this case, women should be encouraged to participate in planning, organizing, actuating and controlling at various levels. They should be the first target for training in the areas of cooperative and credit facilities, as well as semi-finished products.

Supporting Scale Industries

While large scale industries are capable of managing their affairs and

linking themselves with the world, the small and medium scale industries are having difficulties in dealing with appropriate technology, acquisition of tools and materials, as well as familiarizing themselves with the banking system and the global market.

Areas of cooperation could begin from food industry which can provide greater job opportunities. Among others, shifting traditional processing of raw materials, such as rice, coconut, pineapple, mushroom, asparagus and bamboo shoots into mass product processing with the use of appropriate technology, and later on considering to apply better technology and capital intensive methods. To this end, special training should be conducted at the national levels via training for trainers, combined with twinning programs involving universities and private agencies in ASEAN and Japan.

Teaching English and Japanese at Various Academic Levels

In order to prepare the ASEAN people to be internationally competitive, regardless of who will lead their nations in the future, it is necessary to promote English and Japanese teaching at various levels of study. Japan itself has attempted to introduce English teaching throughout the country while at the same time introducing Japanese teaching worldwide. In fact, universal access to basic education is

essential for ensuring that all segments of the society will benefit from macro economic growth.

It is therefore necessary to reconsider the relevance of the current curriculum from primary to tertiary education among the ASEAN member countries in terms of intellectual and practical purposes. In this case, short-term projects can be created starting from elementary and junior high levels, with an international curriculum designed to encourage students to develop their independent thoughts and actions, and able to do simple reading, writing, listening and speaking in basic Japanese and English.

Some basic aspects of cooperation could be inserted into the curriculum, e.g., introducing the multi-cultural aspects of ASEAN and Japan, standard mathematics and computers, sustainable development, and other socio-cultural elements considered important for their future relations with their Japanese counterparts.

This is a long-term project, whose gratification would be realized after years of persistent and consistent application. In the future, firms whether local or international would more eager to invest when they know that they will be able to rely on skilled work force to make their investment more productive. This is a suitable entry point, if we are really thinking of building a new community cap-